

BILL

An Act respecting Constables.

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Constables Act*."

Short title.

2. In this Act

(a) "County" shall include District;

(b) "County Court" shall include District Court.

Interpretation.

APPOINTMENT BY GENERAL SESSIONS.

3. The Court of General Sessions of the Peace, at any sittings or adjourned sittings, but not at a special sittings, may appoint a sufficient number of fit and proper persons to be constables for the county, and may, in like manner, dismiss any constable so appointed. R.S.O. 1897, c. 99, s. 1.

Appointment of Constables.

Dismissal.

4. Every Constable so appointed, and having taken the oath, shall continue in office at least one year, and thereafter from year to year without re-appointment, unless he claims exemption from serving, in which case he shall be released at any time after the end of the first year. R.S.O. 1897, c. 99, s. 3.

Continuance in office.

APPOINTMENT BY COUNTY JUDGE.

Appointment
of Constables
by County
Court Judges.

5.—(1) To prevent injurious delay in appointing County Constables, arising from the long intervals between the sittings of the Courts of General Sessions of the Peace, the Judge of the County Court may appoint one or more Constables for the County. R.S.O. 1897, c. 99, s. 12.

Clerk of the
Peace to be
notified.

(2) The Judge shall forthwith notify the Clerk of the Peace of the appointment. R.S.O. 1897, c. 99, s. 13.

Clerk to report
to the General
Sessions.

(3) The Clerk of the Peace shall report every such appointment to the Court of General Sessions of the Peace at the sittings holden next after he receives such notice, and, unless at such sittings the appointment is revoked, the same shall continue as if it had been made by such Court. R.S.O. 1897, c. 99, s. 14.

Authority of
Constables
appointed
by Judge.

(4) A Constable so appointed shall have the same authority and privileges and be subject to the same liability and shall perform the same duties as if appointed by a Court of General Sessions of the Peace. R.S.O. 1897, c. 99, s. 15, *part*.

APPOINTMENT BY POLICE MAGISTRATES.

Certain Police
Magistrates
may appoint
temporary
Constables.

6.—(1) A salaried County or District Police Magistrate may appoint a Constable for the county or district of which he is a Police Magistrate to hold office for not more than thirty days.

(2) The Police Magistrate making any such appointment shall forthwith notify the Provincial Secretary thereof.

(3) The appointment may be revoked by the Police Magistrate, or by the Provincial Secretary, before the expiration of the thirty days.

(4) A Constable appointed by a Police Magistrate shall have the same authority and privileges, and be subject to the same liability and perform the same duties as if appointed by a Court of General Sessions of the Peace. R.S.O. 1897, c. 99, s. 16.

Constables to
be sworn.

7. Every Constable shall, before entering on the duties of his office, take, subscribe and deposit with the Clerk of the Peace the following oath:

I, _____, having been appointed Constable The Oath.
 for _____ do
 swear that I will truly, faithfully and impartially perform the duties
 appertaining to the said office, according to the best of my skill and
 ability: So help me God.

Sworn, etc.

A. B.

R.S.O. 1897, c. 99, s. 2.

HIGH CONSTABLE.

8.—(1) The municipal council of every county shall, by Appointment, remuneration and equipment of High Constable.
 by-law, appoint a fit and proper person to be High Con-
 stable for the county, and may fix his remuneration by
 salary or otherwise, and may allow him such sums for
 expenses, and may supply him with such arms and accou-
 trements, clothing and other necessities as may be deemed
 proper. R.S.O. 1897, c. 99, s. 4.

(2) If the council does not within three months after When council neglects to appoint.
 a vacancy occurs fill the same, the appointment may be made
 by the Judge of the County Court, the Warden, the Sheriff
 and the Crown Attorney, or any three of them, and the
 person so appointed shall hold office until his appointment is
 confirmed, or a new appointment made by the council.
 R.S.O. 1897, c. 99, s. 5.

9.—(1) Every person appointed to be a High Constable Oath of High Constable.
 shall before entering on the duties of his office, take and
 subscribe the following oath:

I, _____, do swear that I will well and truly serve Our Form of.
 Sovereign Lord the King in the office of High Constable for the
 county (or united counties) of _____ without favour or affection,
 malice or ill-will; and that to the best of my power, I will cause
 the peace to be kept and preserved, and prevent all offences against
 the persons and properties of His Majesty's subjects; and that
 while I continue to hold the said office, I will, to the best of my skill
 and knowledge, discharge all the duties thereof faithfully according
 to law: So help me God.

Sworn, etc.

C. D.

(2) The oath, together with a copy of the by-law by Oath and appointment to be deposited with Clerk of Peace.
 which the High Constable was appointed, shall be by him
 deposited in the office of the Clerk of the Peace, who shall
 immediately notify the Inspector of Legal Offices of the
 appointment. R.S.O. 1897, c. 99, s. 7.

10. A High Constable shall hold office during the pleasure High Constable to hold office during pleasure of Council.
 of the council. R.S.O. 1897, c. 99, s. 8.

11. A High Constable shall have the supervision of all To have supervision of other Constables.
 the Constables in his county and shall be charged with the
 special duties of preserving the peace, preventing crime,

and apprehending offenders; and shall have generally all the powers and privileges, and be liable to all the duties and responsibilities, which belong to Constables. R.S.O. 1897, c. 99, s. 9.

May be appointed Provincial Constable.

12. A High Constable may be authorized by the Lieutenant-Governor to exercise the powers of a Provincial Constable so long as he holds the office of High Constable. R.S.O. 1897, c. 99, s. 10.

To be entitled to fees unless otherwise provided.

13. A High Constable for services rendered by him shall be entitled to the fees allowed by law, unless the council otherwise provides for payment therefor. R.S.O. 1897, c. 99, s. 11.

Constable to be County Constable.

14. Every Constable appointed by the authority of this Act shall be a County Constable. R.S.O. 1897, c. 99, s. 15, *part*.

RETURNS BY CONSTABLES.

High and County Constables to make returns.

15.—(1) Every High Constable and every Constable, whether appointed under the authority of this or any other Act, shall make such returns respecting his duties and acts as the Inspector of Legal Offices requires. R.S.O. 1897, c. 99, s. 19, *part*.

(2) This section shall not apply to a city or to a town having a Board of Commissioners of Police.

INQUIRIES BY INSPECTOR.

Supervision by Inspector of Legal Offices.

16.—(1) The Inspector of Legal Offices shall inspect the offices of the High Constables and Constables to which section 14 applies, and may hold inquiries into their conduct in connection with their official duties. R.S.O. 1897, c. 99, s. 18.

Inspector may examine on oath and compel attendance of witnesses.

(2) Where the Inspector institutes an inquiry he may require the officer or any other person to give evidence on oath; and for that purpose shall have the same power to summon such officer and other person to attend as witnesses, to enforce their attendance, and to compel them to produce books, documents and things and to give evidence, as any Court has in civil cases. R.S.O. 1897, c. 99, s. 19, *part*.

SUSPENSION FROM OFFICE.

Suspension of Constables by

17.—(1) The Judge of the County Court or the Inspector of Legal Offices may suspend from office a High Constable

or any County Constable for any period not extending beyond one week after the time appointed for the next sittings of the Court of General Sessions of the Peace. County Court Judge or Inspector.

(2) The suspension shall be by notice in writing and, if the Judge or the Inspector considers the suspended officer deserving of dismissal, he shall, immediately after suspending him, report the case fully to the Clerk of the Peace for submission to the Court of General Sessions of the Peace at its next sittings.

(3) The Court may dismiss the officer or direct him to be restored to his office, after the period of his suspension has expired, or after such further period as may be deemed proper. R.S.O. 1897, c. 99, s. 17.

ONTARIO POLICE FORCE.

18.—(1) The Lieutenant-Governor may constitute a force of police constables to be known as the *Ontario Police Force*. Ontario Police Force.

(2) The force shall consist of a Superintendent and such Inspectors of Criminal Investigation, Divisional Inspectors and Constables as the Lieutenant-Governor may deem necessary and every member of such force shall have authority to act as a constable throughout Ontario, and all members of the force shall conform to such rules and regulations as may be prescribed by the Lieutenant-Governor in Council.

(3) The Superintendent shall have control of the Force and may hold enquiries into the conduct thereof and shall have and may exercise the like powers and authority as are conferred on the Inspector of Legal Offices by section 16.

(4) The Lieutenant-Governor where he deems proper may authorize any person to exercise the powers of a Provincial Police Constable.

PERSONS EXEMPT.

19. The officers, non-commissioned officers and men of every militia corps shall be exempt from serving as constables except as special constables; and a certificate under the hand of the officer commanding the corps shall be sufficient evidence of the service in his corps of any officer, non-commissioned officer or man for the then current year, and of his exemption. R.S.O. 1897, c. 99, s. 22. Exemption of Volunteers from serving as Constables.

APPOINTMENT OF SPECIAL CONSTABLES.

Any two or more Justices of the Peace empowered to appoint special constables in certain cases of apprehension of riot, etc.

Who may be appointed.

20. If it is made to appear to any two or more Justices of the Peace upon the oath of any credible witness, that any tumult, riot, or felony has taken place or is continuing or may be reasonably apprehended within the limits for which such Justices have authority to act, and the Justices are of opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of property, such Justices may, by writing under their hands, appoint so many as they think fit of the householders or other persons not legally exempt from serving in the office of Constable, residing within such limits, or in the neighbourhood thereof, to act as Special Constables for such time and in such manner as to such Justices may seem necessary. R.S.O. 1897, c. 99, s. 23.

Such Justices may administer an oath of office to the person so appointed.

21. The Justices of the Peace who appoint Special Constables by virtue of this Act, or any one of them, or any other Justice of the Peace acting within the same limits, may administer to any person so appointed the following oath:

Oath.

" I, A. B., do swear that I will well and truly serve our Sovereign Lord the King in the office of Special Constable for the of , without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects; and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law: So help me God."

R.S.O. 1897, c. 99, s. 24.

Notice of appointment to be sent to Provincial Secretary.

22. Where it is deemed necessary to appoint Special Constables, notice of the appointment, and of the circumstances which rendered it expedient, shall be forthwith transmitted by the Justices making the appointment to the Provincial Secretary. R.S.O. 1897, c. 99, s. 25.

Justices may make regulations touching special constables.

23. The Justices who appoint any Special Constable, under this Act, or any two of them, or the Justices acting within the limits for which the Special Constable has been appointed, or the majority of them, may make such orders and regulations as they may deem necessary or expedient for rendering the Special Constables more efficient for the preservation of the public peace, and may remove any such Special Constable from his office for any misconduct or neglect of duty therein. R.S.O. 1897, c. 99, s. 26.

24. Every Special Constable appointed under this Act, not only within the territorial division or place for which he has been appointed, but also throughout the entire jurisdiction of the Justices who appointed him, shall have and may exercise the like powers, authorities, advantages and immunities, and be liable to the like duties and responsibilities as any other Constable. R.S.O. 1897, c. 99, s. 27.

Powers of special constables, and local extent of such powers.

25. Where a Special Constable appointed under this Act is serving within a territorial division or place, and two or more Justices of the Peace of an adjoining territorial division or place make it appear, to the satisfaction of two or more Justices of the Peace acting within the limits for which the Special Constable is serving, that extraordinary circumstances exist which render it expedient that the Special Constable should act in such adjoining territorial division or place, the last mentioned Justices may order such Special Constable to act in such adjoining territorial division or place in such manner as to the last mentioned Justices may seem proper, and notice of such order shall be forthwith transmitted by the Justices to the Provincial Secretary. R.S.O. 1897, c. 99, s. 28.

Constables may act in an adjoining division in certain cases

26. Every such Special Constable, during the time he so acts in such adjoining territorial division or place, shall have, and may exercise all the like powers, authorities, advantages and immunities, and be liable to the like duties and responsibilities, as if he were acting within the territorial division or place for which he was originally appointed, R.S.O. 1897, c. 99, s. 29.

Their powers in such adjoining division.

27.—(1) The Justices of the Peace acting within the limits for which the Special Constable has been appointed or a majority of them may order such reasonable allowances for his trouble, loss of time and expenses, not exceeding \$1 a day, to be paid to such Special Constable who has so served or is then serving, as to such Justices, or to the majority of them may seem proper. R.S.O. 1897, c. 99, s. 30.

Special constables may be paid a per diem allowance.

(2) Such order shall be made upon the Treasurer of the territorial or municipal division for which the Special Constable has been appointed, and the Treasurer shall pay the same, and shall be allowed the same in his accounts. R.S.O. 1897, c. 99, s. 31.

Allowance to be paid by the Treasurer of the municipality.

28. The Justices who have appointed a Special Constable, or the Justices acting within the limits for which the Special Constable has been appointed, or a majority of them, may suspend or terminate the service of the Special Constable so appointed, and notice of such suspension or

Justices may suspend or determine the services of special constables.

termination shall be forthwith transmitted by the Justices to the Provincial Secretary. R.S.O. 1897, c. 99, s. 33.

PENALTIES.

Special constables to deliver up their staves, etc., when discharged.

29. Every Special Constable, within one week after the expiration of his term of office, or after he has ceased to hold or exercise the same pursuant to this Act, shall deliver to his successor, if any, or to such persons and at such time and place as may be directed by a Justice of the Peace acting within the limits for which the Special Constable was appointed, every staff, weapon and other article which has been provided for such Special Constable under this Act; and if a Special Constable neglects or refuses so to do, he shall incur a penalty not exceeding \$8. R.S.O. 1897, c. 99, s. 34.

Penalty for refusing to take oath or act as constable.

30. If a person appointed to be a Special Constable

- (a) Refuses to take the oath hereinbefore mentioned when thereunto required by the Justices of the Peace who appointed him or by any two of them or by any other two Justices of the Peace acting within the limits for which he was appointed, or
- (b) Neglects or refuses to appear for the purpose of taking the oath at the time and place for which he has been summoned unless he proves that he was prevented from so doing by sickness or some unavoidable cause, or
- (c) Being called upon to serve, neglects or refuses to serve or to obey such lawful orders or directions as may be given to him for the performance of the duties of his office,

he shall incur a penalty not exceeding \$20. R.S.O. 1897, c. 99, ss. 35, 36, 37.

Recovery of penalties.

31. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act* and shall be paid to the Treasurer of the territorial or municipal division within which the offence was committed. R.S.O. 1897, c. 99, s. 43.

Repeal.

32. Chapter 99 of the Revised Statutes of Ontario, 1897, and all amendments thereto, and section 48 of Chapter 109 of the said Revised Statutes are repealed.

No. 119.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Constables.

First Reading	day of	1910
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

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REPEAL, s. 31.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Constables Act.*"

Short title.

2. In this Act

(a) "County" shall include District;

(b) "County Court" shall include District Court.

Interpretation.

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3. The Court of General Sessions of the Peace, at any sittings or adjourned sittings, but not at a special sittings, may appoint a sufficient number of fit and proper persons to be constables for the county, and may, in like manner, dismiss any constable so appointed. R.S.O. 1897, c. 99, s. 1.

Appointment of Constables.

Dismissal.

4. Every Constable so appointed, and having taken the oath, shall continue in office at least one year, and thereafter from year to year without re-appointment, unless he claims exemption from serving, in which case he shall be released at any time after the end of the first year. R.S.O. 1897, c. 99, s. 3.

Continuance in office.

APPOINTMENT BY COUNTY JUDGE.

Appointment
of Constables
by County
Court Judges.

5.—(1) To prevent injurious delay in appointing County Constables, arising from the long intervals between the sittings of the Courts of General Sessions of the Peace, the Judge of the County Court may appoint one or more Constables for the County. R.S.O. 1897, c. 99, s. 12.

Clerk of the
Peace to be
notified.

(2) The Judge shall forthwith notify the Clerk of the Peace of the appointment. R.S.O. 1897, c. 99, s. 13.

Clerk to report
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Sessions.

(3) The Clerk of the Peace shall report every such appointment to the Court of General Sessions of the Peace at the sittings holden next after he receives such notice, and, unless at such sittings the appointment is revoked, the same shall continue as if it had been made by such Court. R.S.O. 1897, c. 99, s. 14.

Authority of
Constables
appointed
by Judge.

(4) A Constable so appointed shall have the same authority and privileges and be subject to the same liability and shall perform the same duties as if appointed by a Court of General Sessions of the Peace. R.S.O. 1897, c. 99, s. 15, *part*.

APPOINTMENT BY POLICE MAGISTRATES.

Certain Police
Magistrates
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temporary
Constables.

6.—(1) A salaried County or District Police Magistrate may appoint a Constable for the county or district of which he is a Police Magistrate to hold office for not more than thirty days.

(2) The Police Magistrate making any such appointment shall forthwith notify the Provincial Secretary thereof.

(3) The appointment may be revoked by the Police Magistrate, or by the Provincial Secretary, before the expiration of the thirty days.

(4) A Constable appointed by a Police Magistrate shall have the same authority and privileges, and be subject to the same liability and perform the same duties as if appointed by a Court of General Sessions of the Peace. R.S.O. 1897, c. 99, s. 16.

Constables to
be sworn.

7. Every Constable shall, before entering on the duties of his office, take, subscribe and deposit with the Clerk of the Peace the following oath:

I, _____, having been appointed Constable The Oath.
 for _____ do
 swear that I will truly, faithfully and impartially perform the duties
 appertaining to the said office, according to the best of my skill and
 ability: So help me God.

Sworn, etc.

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R.S.O. 1897, c. 99, s. 2.

HIGH CONSTABLE.

8.—(1) The municipal council of every county shall, by Appointment, remuneration and equipment of High Constable.
 by-law, appoint a fit and proper person to be High Con-
 stable for the county, and may fix his remuneration by
 salary or otherwise, and may allow him such sums for
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 trements, clothing and other necessities as may be deemed
 proper. R.S.O. 1897, c. 99, s. 4.

(2) If the council does not within three months after When council neglects to appoint.
 a vacancy occurs fill the same, the appointment may be made
 by the Judge of the County Court, the Warden, the Sheriff
 and the Crown Attorney, or any three of them, and the
 person so appointed shall hold office until his appointment is
 confirmed, or a new appointment made by the council.
 R.S.O. 1897, c. 99, s. 5.

9.—(1) Every person appointed to be a High Constable Oath of High Constable.
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 subscribe the following oath:

I, _____, do swear that I will well and truly serve Our Form of.
 Sovereign Lord the King in the office of High Constable for the
 county (or united counties) of _____ without favour or affection,
 malice or ill-will; and that to the best of my power, I will cause
 the peace to be kept and preserved, and prevent all offences against
 the persons and properties of His Majesty's subjects; and that
 while I continue to hold the said office, I will, to the best of my skill
 and knowledge, discharge all the duties thereof faithfully according
 to law: So help me God.

Sworn, etc.

C. D.

(2) The oath, together with a copy of the by-law by Oath and ap-
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 which the High Constable was appointed, shall be by him
 deposited in the office of the Clerk of the Peace, who shall
 immediately notify the Inspector of Legal Offices of the
 appointment. R.S.O. 1897, c. 99, s. 7.

10. A High Constable shall hold office during the pleasure High Constable to hold office during pleasure of Council.
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11. A High Constable shall have the supervision of all To have super-
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 special duties of preserving the peace, preventing crime,

and apprehending offenders; and shall have generally all the powers and privileges, and be liable to all the duties and responsibilities, which belong to Constables. R.S.O. 1897, c. 99, s. 9.

To be entitled to fees unless otherwise provided.

12. A High Constable for services rendered by him shall be entitled to the fees allowed by law, unless the council otherwise provides for payment therefor. R.S.O. 1897, c. 99, s. 11.

Constable to be County Constable.

13. Every Constable appointed by the authority of this Act shall be a County Constable. R.S.O. 1897, c. 99, s. 15, *part*.

RETURNS BY CONSTABLES.

High and County Constables to make returns.

14.—(1) Every High Constable and every Constable, whether appointed under the authority of this or any other Act, shall make such returns respecting his duties and acts as the Inspector of Legal Offices requires. R.S.O. 1897, c. 99, s. 19, *part*.

(2) This section shall not apply to a city or to a town having a Board of Commissioners of Police.

INQUIRIES BY INSPECTOR.

Supervision by Inspector of Legal Offices.

15.—(1) The Inspector of Legal Offices shall inspect the offices of the High Constables and Constables to which section 13 applies, and may hold inquiries into their conduct in connection with their official duties. R.S.O. 1897, c. 99, s. 18.

Inspector may examine on oath and compel attendance of witnesses.

(2) Where the Inspector institutes an inquiry he may require the officer or any other person to give evidence on oath; and for that purpose shall have the same power to summon such officer and other person to attend as witnesses, to enforce their attendance, and to compel them to produce books, documents and things and to give evidence, as any Court has in civil cases. R.S.O. 1897, c. 99, s. 19, *part*.

SUSPENSION FROM OFFICE.

Suspension of Constables by County Court Judge or Inspector.



16.—(1) The Judge of the County Court or the Inspector of Legal Offices may suspend from office a High Constable or any County Constable for any period not extending beyond one week after the time appointed for the next sittings of the Court of General Sessions of the Peace.


(2) The suspension shall be by notice in writing and, if the Judge or the Inspector considers the suspended officer







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
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

ONTARIO POLICE FORCE.

 17.—(1) The Orders in Council passed on the 13th day of October, 1909, and on the 4th day of February, 1910, providing for the organization of the Ontario Provincial Police Force are confirmed and in so far as the same fix the salaries and other allowances to be paid to the members of the Force shall take effect as from the first day of January, 1910.  Orders in Council confirmed.

(2)  There shall be a  force of police constables to be known as the *Ontario Provincial Police Force*. Ontario Provincial Police Force.

(3) The force shall consist of a Superintendent and such Inspectors of Criminal Investigation, Divisional Inspectors and Constables as the Lieutenant-Governor may deem necessary  and may from time to time appoint,  and every member of such force shall have authority to act as a Constable throughout Ontario  and shall be deemed to be a Provincial Constable  and all members of the force shall conform to such rules and regulations as may  from time to time  be prescribed by the Lieutenant-Governor in Council. Composition of Force.

 (4) Notwithstanding anything in the Orders in Council mentioned in subsection 1 or in this Act contained the Lieutenant-Governor in Council may from time to time fix the salaries, allowances and expenses to be paid to the members of the force and may from time to time alter or cancel the said Orders in Council heretofore made or hereafter made relating to the Ontario Provincial Police Force and such salaries, allowances and expenses shall be payable out of such sum as may from time to time be appropriated by the Legislature for the expenses of the Ontario Provincial Police Force.  Remuneration and expenses.

(5) The Superintendent shall have control of the Force and may hold *an enquiry* into the conduct of *any member* thereof and *upon such enquiry* shall have and may exercise the like powers and authority as are conferred on the Inspector of Legal Offices by section 15  with respect to High Constables.  Superintendent.

Exemption of
Volunteers
from serving
as Constables.

(6) The Lieutenant-Governor where he deems proper may authorize any person ~~is~~ not a member of the Force ~~to~~ to exercise the powers of a Provincial Police Constable.

PERSONS EXEMPT.

Members of
militia corps
exempt from
service.

18. The officers, non-commissioned officers and men of every militia corps shall be exempt from serving as Constables except as Special Constables; and a certificate under the hand of the officer commanding the corps shall be sufficient evidence of the service in his corps of any officer, non-commissioned officer or man for the then current year, and of his exemption. R.S.O. 1897, c. 99, s. 22.

APPOINTMENT OF SPECIAL CONSTABLES.

Any two or
more Justices
of the Peace
empowered to
appoint special
constables in
certain cases
of apprehension
of riot, etc.

19. If it is made to appear to any two or more Justices of the Peace upon the oath of any credible witness, that any tumult, riot, or felony has taken place or is continuing or may be reasonably apprehended within the limits for which such Justices have authority to act, and the Justices are of opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of property, such Justices may, by writing under their hands, appoint so many as they think fit of the householders or other persons not legally exempt from serving in the office of Constable, residing within such limits, or in the neighbourhood thereof, to act as Special Constables for such time and in such manner as to such Justices may seem necessary. R.S.O. 1897, c. 99, s. 23.

Who may be
appointed.

Such Justices
may administer
an oath of office
to the person
so appointed.

20. The Justices of the Peace who appoint Special Constables by virtue of this Act, or any one of them, or any other Justice of the Peace acting within the same limits, may administer to any person so appointed the following oath:

Oath.

" I, A. B., do swear that I will well and truly serve our Sovereign Lord the King in the office of Special Constable for the of , without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects; and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law: So help me God."

R.S.O. 1897, c. 99, s. 24.

Notice of
appointment
to be sent to
Provincial
Secretary.

21. Where it is deemed necessary to appoint Special Constables, notice of the appointment, and of the circum-

stances which rendered it expedient, shall be forthwith transmitted by the Justices making the appointment to the Provincial Secretary. R.S.O. 1897, c. 99, s. 25.

22. The Justices who appoint any Special Constable, Justices may make regulations touching special constables. under this Act, or any two of them, or the Justices acting within the limits for which the Special Constable has been appointed, or the majority of them, may make such orders and regulations as they may deem necessary or expedient for rendering the Special Constables more efficient for the preservation of the public peace, and may remove any such Special Constable from his office for any misconduct or neglect of duty therein. R.S.O. 1897, c. 99, s. 26.

23. Every Special Constable appointed under this Act, Powers of special constables, and local extent of such powers. not only within the territorial division or place for which he has been appointed, but also throughout the entire jurisdiction of the Justices who appointed him, shall have and may exercise the like powers, authorities, advantages and immunities, and be liable to the like duties and responsibilities as any other Constable. R.S.O. 1897, c. 99, s. 27.

24. Where a Special Constable appointed under this Act Constables may act in an adjoining division in certain cases is serving within a territorial division or place, and two or more Justices of the Peace of an adjoining territorial division or place make it appear, to the satisfaction of two or more Justices of the Peace acting within the limits for which the Special Constable is serving, that extraordinary circumstances exist which render it expedient that the Special Constable should act in such adjoining territorial division or place, the last mentioned Justices may order such Special Constable to act in such adjoining territorial division or place in such manner as to the last mentioned Justices may seem proper, and notice of such order shall be forthwith transmitted by the Justices to the Provincial Secretary. R.S.O. 1897, c. 99, s. 28.

25. Every such Special Constable, during the time he so Their powers in such adjoining division. acts in such adjoining territorial division or place, shall have, and may exercise all the like powers, authorities, advantages and immunities, and be liable to the like duties and responsibilities, as if he were acting within the territorial division or place for which he was originally appointed, R.S.O. 1897, c. 99, s. 29.

26.—(1) The Justices of the Peace acting within the Special constables may be paid a per diem allowance. limits for which the Special Constable has been appointed or a majority of them may order such reasonable allowances for his trouble, loss of time and expenses, not exceeding \$1 a day, to be paid to such Special Constable who has so

served or is then serving, as to such Justices, or to the majority of them may seem proper. R.S.O. 1897, c. 99, s. 30.

Allowance to be paid by the Treasurer of the municipality.

(2) Such order shall be made upon the Treasurer of the territorial or municipal division for which the Special Constable has been appointed, and the Treasurer shall pay the same, and shall be allowed the same in his accounts. R.S.O. 1897, c. 99, s. 31.

Justices may suspend or determine the services of special constables.

27. The Justices who have appointed a Special Constable, or the Justices acting within the limits for which the Special Constable has been appointed, or a majority of them, may suspend or terminate the service of the Special Constable so appointed, and notice of such suspension or termination shall be forthwith transmitted by the Justices to the Provincial Secretary. R.S.O. 1897, c. 99, s. 33.

PENALTIES.

Special constables to deliver up their staves, etc., when discharged.

28. Every Special Constable, within one week after the expiration of his term of office, or after he has ceased to hold or exercise the same pursuant to this Act, shall deliver to his successor, if any, or to such persons and at such time and place as may be directed by a Justice of the Peace acting within the limits for which the Special Constable was appointed, every staff, weapon and other article which has been provided for such Special Constable under this Act; and if a Special Constable neglects or refuses so to do, he shall incur a penalty not exceeding \$8. R.S.O. 1897, c. 99, s. 34.

Penalty for refusing to take oath or act as constable.

29. If a person appointed to be a Special Constable

- (a) Refuses to take the oath hereinbefore mentioned when thereunto required by the Justices of the Peace who appointed him or by any two of them or by any other two Justices of the Peace acting within the limits for which he was appointed, or
- (b) Neglects or refuses to appear for the purpose of taking the oath at the time and place for which he has been summoned unless he proves that he was prevented from so doing by sickness or some unavoidable cause, or
- (c) Being called upon to serve, neglects or refuses to serve or to obey such lawful orders or direc-

tions as may be given to him for the performance of the duties of his office,

he shall incur a penalty not exceeding \$20. R.S.O. 1897, c. 99, ss. 35, 36, 37.

30. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act* and shall be paid to the Treasurer of the territorial or municipal division within which the offence was committed. R.S.O. 1897, c. 99, s. 43. Recovery of penalties.

31. Chapter 99 of the Revised Statutes of Ontario, 1897, Repeal. and all amendments thereto, and section 48 of Chapter 109 of the said Revised Statutes are repealed.

No. 119.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Constables.

First Reading 25th day of Jan., 1910
Second Reading 26th day of Jan., 1910

*(Reprinted as amended in Committee of
the Whole House.)*

Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act to provide for the Payment of Witnesses for the Crown.

SHORT TITLE, s. 1.	WITNESSES FROM UNORGANIZED
INTERPRETATION, s. 2.	DISTRICTS, ss. 10, 11.
CASES IN WHICH JUDGE MAY ORDER CROWN WITNESSES TO BE PAID, ss. 3, 4.	WITNESS FEES WHERE RECOVERED FROM PARTIES, s. 12.
CERTIFICATE REQUIRED TO OBTAIN ORDER, s. 5.	FEE TO CROWN ATTORNEY FOR CERTIFICATE, s. 13.
FORM OF ORDER, ETC., s. 6.	WITNESS FEES ON CLAIMS BY CROWN, s. 14.
PAYMENT BY MUNICIPALITIES, ss. 7, 8.	COMPENSATION OF WITNESS NOT PAYABLE BEFORE DETERMINATION OF CASE, s. 15.
REIMBURSEMENT BY GOVERNMENT IN PART, s. 9.	REPEAL, s. 16.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as “*The Crown Witnesses Act.*” Short title.

2. In this Act,

Interpre-
tation.

“Court,” shall mean and include the High Court, the “Court.” Court of General Sessions of the Peace, the County or District Court Judge’s Criminal Court, and Courts for the summary trial of indictable offences under *The Criminal Code*. R.S.O. 1897, c. 105, s. 1. R.S.O. c. 146.

3. The Judge who holds the Court before which a prosecution or trial for an indictable offence takes place may grant to any person who attends on recognizance or subpoena, or on the request of the Crown Counsel, to give evidence, or who gives evidence, on the part of the Crown, an order for payment of such sum as to the Judge seems reasonable and sufficient to compensate the witness for his costs and charges in attending as such witness; but in no case other than that of an expert witness shall such sum exceed

In certain cases Crown witnesses may be compensated for attendance on prosecution or trial.

the amount payable in civil cases in the High Court. R.S.O. 1897, c. 105, s. 3; 3 Edw. VII. c. 7, s. 24.

Or where no indictment preferred or trial had.

4. Where a bill of indictment has not been preferred, or where the trial has not been proceeded with, the Judge may make a similar order in favour of any person who, in his opinion, *bona fide* attended the Court in obedience to a recognizance or subpœna. R.S.O. 1897, c. 105, s. 4.

Certificate whereon order to be made.

5.—(1) The order shall not be made except on a certificate by the Counsel for the Crown, and by the Crown Attorney unless the Crown Attorney acts as Counsel for the Crown; and the certificate shall contain the particulars necessary in the affidavit required in civil cases to entitle a party to disbursements to witnesses, and shall be to the like effect; but the Judge may require further evidence, and may grant or refuse the order.

Discretion as to order.

Certificate in absence of Crown Attorney.

(2) If some other person is acting for the Crown Attorney, the certificate may be given by him. R.S.O. 1897, c. 105, s. 5.

Order, how made out and directed.

6. The order shall be forthwith made out by the proper officer of the Court, and shall be directed to the treasurer of the county in which the offence was committed or was supposed to have been committed; or, if the offence was committed or was supposed to have been committed in a city, or in a town separated for municipal purposes from the county, the order shall be directed to the treasurer of the city or town. R.S.O. 1897, c. 105, s. 7.

Payment by the treasurer of county where trial takes place.

7. The treasurer to whom the order is directed shall forthwith, out of the funds of the municipality in his hands, pay to each of the witnesses named, the amount stated in the certificate, on his signing a receipt therefor in person. R.S.O. 1897, c. 105, s. 8.

Payment by a treasurer on whom order is not made.

8. Where the trial takes place in a county other than the county in which the offence was committed, the treasurer of the county in which the trial takes place, if applied to by the witness, shall forthwith pay the money in the first instance out of the funds of the municipality in his hands, and shall forthwith be reimbursed by the treasurer to whom the order is directed. R.S.O. 1897, c. 105, s. 9.

One-third to be repaid to municipality.

9. One-third of the amount paid to witnesses under this Act shall be repaid to the municipality out of the Consolidated Revenue Fund, except as is hereinafter mentioned. R.S.O. 1897, c. 105, s. 10.

10. In respect of witnesses in cases sent from the unorganized districts for trial in any county, the expenses of the witnesses shall be repaid in full out of the Consolidated Revenue Fund. R.S.O. 1897, c. 105, s. 11.

Expenses of witnesses in cases sent from unorganized districts, for trial in a county.

11. The like fees shall be paid out of the Consolidated Revenue Fund to witnesses attending a sitting of any Court held in any unorganized district, upon the prosecution or trial of an indictable offence, and shall be so paid under such regulations as the Lieutenant-Governor in Council may prescribe. R.S.O. 1897, c. 105, s. 12.

Witness in cases tried in unorganized districts.

12. Where witness fees paid under the provisions of this Act are, by virtue of the judgment of the Court, afterwards recovered from the prosecutor or defendant, the same shall be repaid to the municipality, and one-third accounted for by the municipality to the Crown. R.S.O. 1897, c. 105, s. 13.

On recovery from prosecutor or defendant, the municipality to be repaid.

13.—(1) The Crown Attorney shall be entitled to receive from the corporation of the county in which the Court is held a fee of \$1, in respect of every prosecution or trial on which a witness is examined, which sum shall be over and above his other costs and charges and shall cover the costs, charges and expenses of and incidental to the certificate, or the inquiry whether a certificate should be granted. R.S.O. 1897, c. 105, s. 14.

Fee to Crown Attorney in respect of certificate.

(2) One-third of such fee shall be repaid to the corporation out of the Consolidated Revenue Fund. R.S.O. 1897, c. 105, s. 15.

One-third of Crown Attorney's fee to be repaid to municipality.

14. In the case of an information, action, or other legal proceeding by or on behalf of the Crown, for the prosecution of rights, claims or demands of His Majesty against any person for the use of the Province, or for the recovery of the possession of any lands, deeds or personal property whereto His Majesty claims to be entitled for the use of the Province, the witnesses shall be entitled to be paid the like witness fees as are payable in actions between subject and subject. R.S.O. 1897, c. 105, s. 16.

Witness fees payable on prosecution of claims, etc., by His Majesty.

15. Nothing herein shall entitle a witness to require payment of any sum previous to the determination by adjournment or otherwise at the Court of the prosecution or trial at which he attends as a witness. R.S.O. 1897, c. 105, s. 17.

Compensation not payable before determination of the case.

16. Chapter 105 of the Revised Statutes, 1897, and all amendments thereto are repealed.

Repeal.

No. 120

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to provide for the Payment of
Witnesses for the Crown.

First Reading	day of	1910
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Mr. Foy.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act respecting Powers of Attorney.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Powers of Attorney Act*." Short title.

2. Where a power of attorney for the sale or management of real or personal estate, or for any other purpose, provides that the same may be exercised in the name and on the behalf of the heirs or devisees, executors or administrators of the person executing the same, or provides by any form of words that the same shall not be revoked by the death of the person executing the same, such provision shall be valid and effectual, subject to such conditions and restrictions, if any, as may be therein contained. R.S.O. 1897, c. 116, s. 1. As to power of attorney provided expressly to be exercised after decease of constituent.

3. Independently of such special provision in a power of attorney, every payment made and every act done under and in pursuance of a power of attorney, or a power, whether in writing or verbal, and whether expressly or impliedly given, or an agency expressly or impliedly created after the death of the person who gave such power or created such agency, or after he has done some act to avoid the power or agency, shall, notwithstanding such death or act, be valid as respects every person who is a party to such payment or act, to whom the fact of the death, or of the doing of such act, was not known at the time of such payment or act *bona fide* made or done, and as respects all claiming under such last mentioned person. R.S.O. 1897, c. 116, s. 2. When acts done after the decease, etc., of constituents to be valid.

4. Chapter 11 of the Revised Statutes, 1897, is repealed. Repeal.

No. 121

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Powers of Attorney.

First Reading	day of	1910
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Mr. Foy

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act adopting the Law of England in certain
Matters.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Property and Civil Rights Act.*" Short title.

2.—(1) In all matters of controversy relative to property and civil rights, resort shall be had to the laws of England as they stood on the 15th day of October, 1792, as the rule for the decision of the same, and all matters relative to testimony and legal proof in the investigation of fact and the forms thereof in the Courts of Ontario shall be regulated by the rules of evidence established in England, as they existed on that day, except so far as such laws and rules have been since repealed, altered, varied, modified or affected by any Act of the Imperial Parliament, still having the force of law in Ontario, or by any Act of the late Province of Upper Canada, or of the Province of Canada, or of the Province of Ontario, still having the force of law in Ontario.
The law of England on 15th Oct., 1792, to be the rule of decision.
R.S.O. 1897, c. 111, s. 1.

(2) Nothing in this section shall extend to any of the laws of England respecting the maintenance of the poor.

3. Chapter 111 of the Revised Statutes of Ontario is Repeal.
repealed.

No. 122

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act adopting the Law of England in
Certain Matters.

First Reading	day of	1910
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Mr. Foy

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty

An Act respecting the Rights of Aliens in relation
to Real Property.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Aliens' Real Property Act*." Short title.

2. On and from the 23rd day of November, 1849, every alien shall be deemed to have had, and shall hereafter have, the same capacity to take by gift, conveyance, descent, devise, or otherwise, and to hold, possess, enjoy, claim, recover, convey, devise, impart and transmit real estate in Ontario, as a natural born or a naturalized subject of His Majesty. Aliens to have the same powers as to real estate as subjects of His Majesty.
R.S.O. 1897, c. 118, s. 1.

3. The real estate in Ontario of an alien dying intestate shall descend and be transmitted as if the same had been the real estate of a natural born or naturalized subject of His Majesty. Descent of real estate of aliens.
R.S.O. 1897, c. 118, s. 2.

4. Nothing herein shall alter, impair or affect any right or title legally vested in or acquired by any person before the 23rd day of November, 1849. Proviso as to rights before 23rd November, 1849.
R.S.O. 1897, c. 118, s. 3.

5. Chapter 118 of the Revised Statutes, 1897, is repealed. Repeal.

No. 123

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting the Rights of Aliens in
relation to Real Property.

First Reading	day of	1910
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Mr. Foy

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act respecting the right of Property in Swarms
of Bees.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Swarms of Bees Act.*" Short title.*

2. Bees living in a state of freedom shall be the property of the person discovering them, whether he is or is not the proprietor of the land on which they have established themselves. Bees in a state of freedom to be the property of their discoverer. R.S.O. 1897, c. 117, s. 1.

3. Bees reared and kept in hives shall be private property. Bees reared in hives to be private property. R.S.O. 1897, c. 117, s. 2.

[*As to extent of exemption from seizure under execution, see 9 Edw. VII. c. 47, s. 3, cl. g.*]

4.—(1) Where a swarm of bees leaves a hive, the owner may reclaim them, so long as he can prove his right of property therein, and shall be entitled to take possession of them at any place on which the swarm settles, even if such place be on the land of another person, but the owner shall notify the proprietor of such land beforehand and compensate him for all damages. Rights of owner in case of bees abandoning their hives.

(2) If a swarm settles in a hive which is already occupied, the owner of such swarm shall lose all right of property therein. Proviso. R.S.O. 1897, c. 117, s. 3.

5. An unpursued swarm which lodges on any property, without settling thereon, may be secured by the first comer, unless the proprietor of the land objects. Unpursued swarms. R.S.O. 1897, c. 117, s. 4.

Property where
owner declines
to follow his
bees.

6. If the owner of a swarm declines to follow the swarm, and another person undertakes the pursuit, such other person shall be substituted in the rights of the owner, and every swarm which is not followed shall become the property of the proprietor of the land on which it settles, without regard to the place from which it has come. R.S.O. 1897, c. 117, s. 5.

Repeal.

7. Chapter 117 of the Revised Statutes is repealed.

No. 124

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting the Right of Property
in Swarms of Bees.

First Reading	day of	1910
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Mr. DUFF.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to provide for the better Government of that part of Ontario situated in the Vicinity of the Falls of Niagara.

SHORT TITLE, s. 1.
APPOINTMENT OF POLICE MAGIS-
TRATE, s. 2.

POWERS AND DUTIES, ss. 3-6
DISPOSITION OF FINES, s. 7.
REPEAL, s. 8.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. This Act may be cited as "*The Niagara Falls Magis- Short title.
trate's Act.*"
2. The Lieutenant-Governor in Council may appoint a <sup>Appointment
of Police
Magistrate.</sup> Police Magistrate for the City of Niagara Falls, in the County of Welland. R.S.O. 1897, c. 110, s. 1.
3. The Police Magistrate shall be *ex-officio* a Justice of <sup>Powers and
duties of
Police Magis-
trate.</sup> the Peace of and for the County of Lincoln, and of and for the County of Welland; and may exercise within those counties the jurisdiction and authority of two Justices of the Peace in relation to all matters in respect to which the Legislature of Ontario has authority so to enact. R.S.O. 1897, c. 110, s. 2.
4. The Police Magistrate shall, as often as he considers <sup>Police Court
at Fort Erie.</sup> necessary, or, if the Lieutenant-Governor in Council gives a direction in that behalf then as often as the Lieutenant-Governor in Council directs, hold a Police Court in the Village of Fort Erie. R.S.O. 1897, c. 110, s. 3.
5. Subject to the provisions of the next preceding section, <sup>What com-
plaints to be
heard.</sup> the Police Magistrate shall not be bound to entertain any complaint except with reference to offences committed within the limits of the City of Niagara Falls or of the Township of Stamford; and he shall, as far as practicable, give prece-

dence to complaints in which persons residing at a distance are concerned, either as parties or as witnesses, over complaints in which only persons residing in the neighbourhood of the City of Niagara Falls are so concerned. R.S.O. 1897, c. 110, s. 4.

Power of
revocation of
licenses.

6. In addition to any other penalty imposed by any statute or by any by-law of the municipality, as a punishment for any offence, the Police Magistrate shall have authority to order the revocation or the suspension for such period as he may consider just, of any license granted or issued by the municipal officers of the City of Niagara Falls or of the Township of Stamford, or of the Village of Fort Erie, or of the Township of Bertie, to the person convicted. R.S.O. 1897, c. 110, s. 5.

Police Magis-
trate to keep
accounts of
fines, etc.

7.—(1) The Police Magistrate shall keep proper accounts of all fines, penalties and costs imposed in the Police Courts of the City of Niagara Falls and of the Village of Fort Erie, or elsewhere imposed by him.

Disposition of
fines, etc.

Rev. Stat.
c. 245.

(2) Such fines, penalties and costs, other than those arising from prosecutions under *The Liquor License Act*, if the same were imposed in the Police Court at the City of Niagara Falls, shall be paid over by him to the Treasurer of the City of Niagara Falls for the uses of the city, at such periods as such Treasurer and Police Magistrate may agree upon, or in default of agreement at such periods as may be fixed by the City Council; and in other cases shall forthwith, or at such period as the Treasurer of Ontario shall direct, be paid over by the Police Magistrate to the Treasurer, and shall form part of the Consolidated Revenue Fund. 4 Edw. VII., c. 10, s. 26.

Rev. Stat.
c. 245.

(3) All fines from prosecutions under *The Liquor License Act* shall form part of the license fund of the district, to be dealt with as provided by that Act. R.S.O. 1897, c. 110, s. 9 (2).

Repeal.

8. Chapter 110 of the Revised Statutes of Ontario, 1897, and all amendments thereto are repealed.

No. 125

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to provide for the better Govern-
ment of that part of Ontario situated in
the Vicinity of the Falls of Niagara.

First Reading	day of	1910
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Mr. Foy

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting Petty Trespasses.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Petty Trespass Act.*" Short Title

2. Any person who unlawfully enters into, comes upon, or passes through or in any way trespasses upon any land, the property of another person, which is wholly enclosed, or is a garden or lawn, shall incur a penalty of not less than \$1 nor more than \$10, whether any damage has or has not been occasioned thereby, recoverable under the *Ontario Summary Convictions Act*. R.S.O. 1897, c. 120, s. 1, *part*; 2 Edw. VII., c. 12, s. 17. Penalty for trespass.

3. Any person found committing such a trespass, may be apprehended, without warrant, by any peace officer, or by the owner of the land on which it is committed, or the servant of, or any person authorized by such owner, and be forthwith taken before the nearest Justice of the Peace, to be dealt with according to law. R.S.O. 1897, c. 120, s. 2. Trespasser may be arrested without warrant.

4. Nothing in this Act shall authorize any Justice of the Peace to hear and determine any case of trespass in which the title to land, or to any interest therein, shall be called in question or affected; but every such case shall be dealt with according to law in the same manner as if this Act had not been passed. R.S.O. 1897, c. 120, s. 4. Act not to affect any case involving title to land.

5. Nothing in sections 2 and 3 shall extend to any case where the person trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of, or to any case within section 539 of *The Criminal Code*. R.S.O. 1897, c. 120, s. 1 *part*; 2 Edw. VII., c. 12, s. 17. Act not to affect persons claiming a right. R.S.C., c. 146.

6. Chapter 120 of The Revised Statutes, 1897, and all amendments thereto are repealed. Repeal.

No. 126

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Petty Trespasses.

First Reading	day of	1910
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Mr. Foy

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act respecting Short Forms of Conveyances

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Short Forms of Conveyances Act*." Short title.

2. In this Act,

Interpreta-
tion.

(a) "Land" shall include freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein. "Land."

(b) "Party" and "Parties" shall include a body politic or corporate, as well as an individual. "Party."
R.S.O. 1897, c. 124, s. 1.

3. Where a deed of land made according to the form set forth in Schedule A, or any other deed of land expressed to be made in pursuance of this Act or referring thereto contains any of the forms of words contained in Column One of Schedule B, and distinguished by any number therein, such deed shall have the same effect as if it contained the form of words in Column Two of Schedule B, distinguished by the same number as is annexed to the form of words used in such deed; but it shall not be necessary, in any such deed, to insert any such number. Where words of Column 1 of Schedule B are employed the deed to have the same effect as if the words in Column 2 were inserted.
R.S.O. 1897, c. 124, s. 2.

4.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the words "Grantor" or "Grantee," any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column. Parties may substitute names for "grantor" or "grantee."

May substitute feminine for masculine or plural for singular.

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

May introduce exceptions.

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from, or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

May add names or designations.

(4) Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words at the end of form two of the first column, so as thereby to extend the words thereof to the acts of any additional person or persons, or class or classes of persons, or of all persons whomsoever; and in every such case the covenants 2, 3 and 4, or such of them as may be employed in such deed, shall be taken to extend to the acts of the person or persons, class or classes of persons so named. R.S.O. 1897, c. 124, Schedule B, *part*.

Deeds failing to take effect under this Act to be as valid as if Act not passed.

5. Any deed or part of a deed which fails to take effect by virtue of this Act, shall, nevertheless, be as effectual to bind the parties thereto, as if this Act had not been passed. R.S.O. 1897, c. 124, s. 3.

Repeal.

6. Chapter 124 of the Revised Statutes, 1897, and all amendments thereto are repealed.

[See also *Cap. 119, sec. 12.*]

SCHEDULE A.

This Indenture made the day of , one thousand nine hundred and , in pursuance of *The Act respecting Short Forms of Conveyances*, Between (*here insert names of parties and recitals, if any*), Witnesseth, that in consideration of now paid by the said (*grantee*) to the said (*grantor*) the receipt whereof is hereby by him acknowledged, he the said (*grantor*) doth grant unto the said (*grantee*) in fee simple (*or otherwise as the case may be*) all, etc., (*parcels*)

(*Here insert covenants, or any other provisions.*)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1897, c. 124, Sched. A.

SCHEDULE B.

COLUMN ONE.

1. The said grantor covenants with the said grantee.

2. That he has the right to convey the said lands to the said grantee notwithstanding any act of the said grantor.

3. And that the said grantee shall have quiet possession of the said lands.

4. Free from all incumbrances.

5. And the said grantor covenants with the said grantee that he will execute such further assurances of the said lands as may be requisite.

COLUMN TWO.

1. And the said grantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators and assigns, in manner following, that is to say :

2. That for and notwithstanding any act, deed, matter or thing by the said grantor done, executed, committed, or knowingly or wilfully permitted or suffered to the contrary, he, the said grantor, now hath in himself good right, full power, and absolute authority to convey the said lands, and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said grantee, in manner aforesaid, and according to the true intent of these presents.

3. And that it shall be lawful for the said grantee, his heirs, executors, administrators and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess and enjoy the said lands and premises hereby conveyed, or intended so to be, with their and every of their appurtenances; and to have, receive and take the rents, issues and profits thereof, and of every part thereof, to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim or demand whatsoever of, from or by him the said grantor, or his heirs, or any person claiming, or to claim, by, from, under or in trust for him, them or any of them.

4. And that free and clear, and freely and absolutely acquitted, exonerated and for ever discharged or otherwise by the said grantor or his heirs well and sufficiently saved, kept harmless and indemnified of, from and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble and incumbrance whatsoever, made, executed, occasioned or suffered by the said grantor or his heirs, or by any person claiming, or to claim, by, from, under or in trust for him, them or any of them.

5. And the said grantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise, and agree with and to the said grantee, his heirs, executors, administrators and assigns, that he the said grantor, his heirs, executors and administrators, and all and every other person who-soever having or claiming, or who shall or may hereafter have or claim, any estate, right, title or interest whatsoever in, to, or out of the said lands and premises hereby conveyed, or intended so to be, or any of them, or any part thereof, by, from, under or in trust for him, them, or any of them, shall and will, from time to time, and at all times hereafter,

COLUMN ONE.

COLUMN TWO.

upon every reasonable request, and at the costs and charges of the said grantee, his heirs, executors, administrators or assigns, make, do, execute, or cause to be made, done or executed, all such further and other lawful acts, deeds, things, devices, conveyances and assurances in the law whatsoever, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed, or intended so to be, and every part thereof, with their appurtenances, unto the said grantee, his heirs, executors, administrators and assigns, in manner aforesaid as by the said grantee, his heirs, executors, administrators or assigns, his or their counsel in the law, shall be reasonably devised, advised or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and deeds of the person who shall be required to make or execute the same, and his heirs, executors or administrators only, and so as no person who shall be required to make or execute such assurances shall be compellable for the making or executing thereof, to go or travel from his usual place of abode.

6. And the said grantor covenants with the said grantee that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said grantee.

6. And the said grantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree with and to the said grantee, his heirs, executors, administrators and assigns, that the said grantor and his heirs shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request, costs and charges of the said grantee, his heirs, executors, administrators or assigns, or his or their solicitor, agent or counsel, at any trial or hearing in any action or otherwise, as occasion shall require, produce all and every or any deed, instrument or writing hereunder written, for the manifestation, defence and support of the estate, title and possession of the said grantee, his heirs, executors, administrators and assigns, in or to the said lands and premises hereby conveyed, or intended so to be, and at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds, by the said grantee, his heirs, executors, administrators, or assigns, or such person as he or they shall for that purpose direct and appoint.

7 And the said grantor covenants with the said grantee that he has done no act to in-

7. And the said grantor, for himself, his heirs, executors and administrators, doth hereby covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators and assigns, that he hath not at any time heretofore made, done, committed, or executed, or wilfully or knowingly suffered

COLUMN ONE.

cumber the said
lands.

8. And the said
grantor releases to
the said grantee all
his claims upon the
said lands.

9. And the said
wife of the said
grantor hereby
bars her dower in
the said lands.

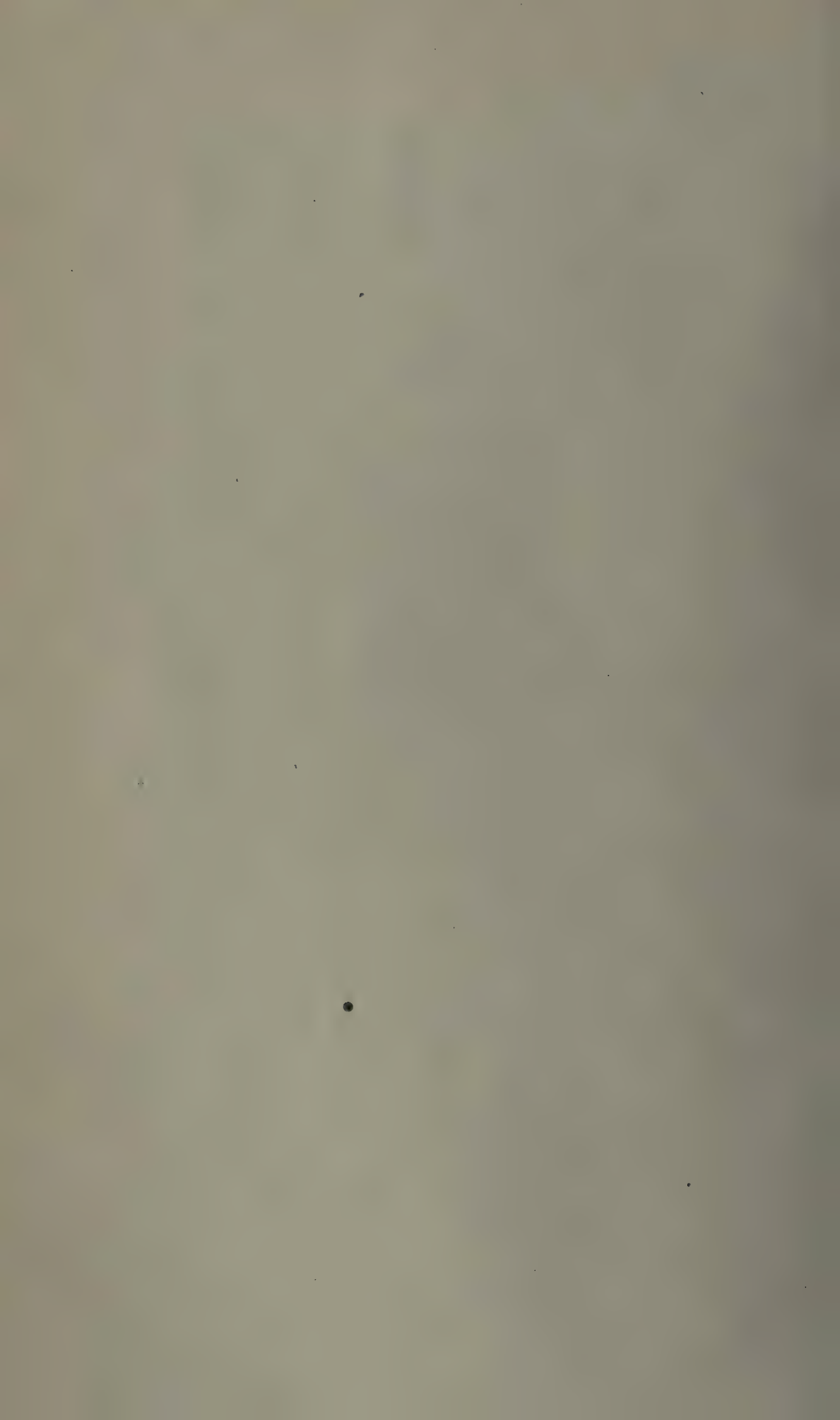
COLUMN TWO.

any act, deed, matter or thing whatsoever,
whereby or by means whereof the said lands
and premises hereby conveyed, or intended so
to be, or any part or parcel thereof are, is or
shall or may be in anywise impeached, charged,
affected or incumbered in title, estate or other-
wise howsoever.

8. And the said grantor hath released, re-
mised and for ever quitted claim, and by these
presents doth release, remise and for ever
quit claim, unto the said grantee, his heirs,
executors, administrators and assigns, all, and
all manner of right, title, interest, claim and
demand whatsoever, in, to and out of the said
lands and premises hereby granted, or intended
so to be, and every part and parcel thereof,
so as that neither he nor his heirs, executors,
administrators or assigns shall nor may, at any
time hereafter, have claim, pretend to, chal-
lenge or demand the said lands and premises
or any part thereof, in any manner howsoever,
but the said grantee, his heirs, executors, ad-
ministrators and assigns, and the same lands
and premises shall from henceforth forever
hereafter be exonerated and discharged of and
from all claims and demands whatsoever which
the said grantor might or could have upon him
in respect of the said lands, or upon the said
lands.

9. And the said wife of the said grantor
for and in consideration of the sum of one
dollar of lawful money of Canada, to her in
hand paid by the said grantee at or before the
sealing and delivery of these presents, the re-
ceipt whereof is hereby acknowledged, hath
granted and released, and by these presents
doth grant and release unto the said grantee,
his heirs, executors, administrators and assigns,
all her dower and right and title which, in the
event of her surviving her said husband, she
might or would have to dower, in, to or out
of the lands and premises hereby conveyed or
intended so to be.

R.S.O. 1897, c. 124, Sched. B.



No. 127.

10 Edward VII, 1910.
2nd Session, 12th Legislature,

BILL.

An Act respecting Short Forms of
Conveyances.

First Reading	day of	1910
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting Short Forms of Leases.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Short Forms of Leases Act*." Short title.

2. Where a lease under seal made according to the form set forth in Schedule A, or any other such lease expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B, and distinguished by any number therein, such lease shall have the same effect as if it contained the form of words contained in Column Two of Schedule B, distinguished by the same number as is annexed to the form of words used in such lease; but it shall not be necessary, in any such lease, to insert any such number. R.S.O. 1897, c. 125, s. 1. Where words of Column 1 of Schedule B are employed, the deed to have the same effect as if the words in column 2 were inserted.

3—(1) Parties who use any of the forms in the first column of Schedule B, may substitute for the words "Lessee" or "Lessor" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column. Parties may substitute any name or designation.

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular in the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column. May substitute feminine for masculine or plural for assigns.

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column. May introduce exceptions.

Application of
covenants to
heirs and
assigns.

(4) Where the premises demised are of freehold tenure, the covenants 2 to 9 shall be taken to be made with, and the proviso 12 to apply to the heirs and assigns of the lessor; and where the premises demised are of leasehold tenure, such covenants and proviso shall be taken to be made with, and apply to the lessor, his executors, administrators and assigns.

"Lessor,"
meaning of.

(5) Where the word "lessor" occurs in the second column, it shall, when the premises demised are of freehold tenure, include the heirs, executors, administrators and assigns of the lessor, and when the premises demised are of leasehold tenure it shall include the executors, administrators and assigns of the lessor, and where the word "lessee" occurs in the second column it shall include the executors, administrators and assigns of the lessee. R.S.O. 1897, c. 125, Schedule B, *part*.

Deeds failing
to take effect
under this Act
to be as valid
as if Act not
passed.

4. Any lease or part of a lease which fails to take effect by virtue of this Act, shall nevertheless be as effectual to bind the parties thereto, as if this Act had not been passed. R.S.O. 1897, c. 125, s. 2.

Covenants to
run with land.

5. Unless the contrary is expressly stated in the lease, all covenants not to assign or sub-let without leave entered into by a lessee in any lease under this Act shall run with the land demised, and shall bind the executors, administrators and assigns of the lessee whether mentioned in the lease or not, unless it is by the terms of the lease otherwise expressly provided, and the proviso for re-entry contained in Schedule B shall, when inserted in a lease, apply to a breach of either an affirmative or negative covenant. R.S.O. 1897, c. 125, s. 4.

Repeal.

6. Chapter 125 of the Revised Statutes, 1897, and all amendments thereto are repealed.

[See also Cap. 119, sec. 12.]

SCHEDULE A.

FORM OF LEASE.

This indenture, made the _____ day of _____, one thousand nine hundred and _____, in pursuance of *The Act respecting Short Forms of Leases*, between _____, of the first part, and _____, of the second part, Witnesseth, that in consideration of the rents, covenants and agreements, herein-after reserved and contained on the part of the lessee, the lessor doth demise and lease unto the lessee, his executors, administrators and assigns all that (*here insert a description of the premises with sufficient certainty*).

To have and to hold the said demised premises for and during the term of , to be computed from the day of , one thousand nine hundred and , and from thenceforth next ensuing and fully to be complete and ended.

Yielding and paying therefor yearly and every year during the said term unto the said lessor, his (or their) heirs, executors, administrators, or assigns, the sum of , to be payable on the following days and times, that is to say (on, etc.), the first of such payments to become due and be made on the day of next, (*here insert covenants or any other provisions*). In witness whereof, etc.

R.S.O. 1897, c. 125, Sched. A.

SCHEDULE B.

COLUMN ONE.

COLUMN TWO.

1. The said lessee covenants with the said lessor in manner following, that is to say:
1. And the said lessee doth hereby covenant with the said lessor in manner following, that is to say:

2. To pay rent.

2. That he, the said lessee, will, during the said term, pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.

3. And to pay taxes, except for local improvements.

3. And also will pay all taxes, rates, duties and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor on account thereof, except municipal taxes for local improvements or works assessed upon the property benefited thereby.

4. And to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

4. And also will, during the said term, well and sufficiently repair, maintain, amend and keep the said demised premises with the appurtenances in good and substantial repair, and all fixtures and things thereto belonging, or which at any time during the said term shall be erected and made by the lessor, when, where, and so often as need shall be, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

5. And to keep up fences.

5. And also will, from time to time, during the said term, keep up the fences and walls of or belonging to the said premises, and make anew any parts thereof that may require to be new-made in a good and husband-like manner and at proper seasons of the year.

6. And not to cut down timber.

6. And also will not at any time during the said term hew, fell, cut down or destroy, or cause or knowingly permit or suffer to be hewed, felled, cut down or destroyed, without the consent in writing of the lessor, any timber or timber trees, except for necessary repairs, or firewood, or for the purpose of clearance as herein set forth.

COLUMN ONE.

COLUMN TWO.

7. And that the said lessor may enter and view state of repair, and that the said lessee will repair according to notice in writing, reasonable wear and tear, and damage by fire, lightning and tempest only excepted.

8. And will not assign or sub-let without leave.

9. And that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

10. Provided, that the lessee may remove his fixtures.

11. Provided, that in the event of fire, lightning or tempest, rent shall cease until the premises are rebuilt.

7. And that it shall be lawful for the lessor and his agents, at all reasonable times during the said term, to enter the said demised premises to examine the condition thereof; and further, that all want of reparation that upon such view shall be found, and for the amendment of which notice in writing shall be left at the premises, the said lessee will, within three calendar months next after such notice, well and sufficiently repair and make good accordingly, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

8. And also that the lessee shall not, nor will during the said term, assign, transfer or set over, or otherwise by any act or deed procure the said premises or any of them to be assigned, transferred, set over or sub-let unto any person or persons whomsoever without the consent in writing of the lessor first had and obtained.

9. And further, that the lessee will, at the expiration, or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor the said premises hereby demised with the appurtenances, together with all the buildings, erections and fixtures erected or made by the lessor thereon, in good and substantial repair and condition, reasonable wear and tear, and damage by fire, lightning and tempest only excepted.

10. Provided, and it is hereby expressly agreed that the lessee may at or prior to the expiration of the term hereby granted, take, remove and carry away from the premises hereby demised all fixtures, fittings, plant, machinery, utensils, shelving, counters, safes or other articles upon the said premises in the nature of trade or tenants' fixtures or other articles belonging to or brought upon the said premises by the said lessee, but the lessee shall in such removal do no damage to the said premises, or shall make good any damage which he may occasion thereto.

11. Provided, and it is hereby expressly agreed, that in case the premises hereby demised or any part thereof shall at any time during the said term be burned down or damaged by fire, lightning or tempest so as to render the same unfit for the purposes of the said lessee, then and so often as the same shall happen, the rent hereby reserved, or a proportionate part thereof, according to the nature and extent of the injuries sustained shall abate, and all or any remedies for recovery of said rent or such proportionate part thereof shall be suspended until the said premises shall have been rebuilt or made fit for the purposes of the said lessee.

COLUMN ONE.

COLUMN TWO.

12. Proviso for re-entry by the said lessor on non-payment of rent or non-performance of covenants.

12. Provided, and it is hereby expressly agreed, that if and whenever the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand shall have been made thereof, or in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the lessee, then and in either of such cases it shall be lawful for the lessor at any time hereafter, into and upon the said demised premises or any part thereof, in the name of the whole to re-enter, and the same to have again, repossess and enjoy, as of his former estate; anything herein after contained to the contrary notwithstanding.

13. The said lessor covenants with the said lessee for quiet enjoyment.

13. And the lessor doth hereby covenant with the lessee, that he paying the rent hereby reserved and performing the covenants hereinbefore on his part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the lessor, or any other person or persons lawfully claiming by, from or under him.

R.S.O. 1897, c. 125, Sched. B.

No. 128.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting Short Forms of Leases

First Reading	day of	1910
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Mr. Foy.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting Short Forms of Mortgages.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Short Forms of Mortgages Act*." Short title.

2. In this Act,

Interpretation.

(a) "Land" shall include freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein; "Land."

(b) "Party" and "Parties" shall include a body politic or corporate as well as an individual. "Party."
R.S.O. 1897, c. 126, s. 1.

3.—(1) Where a mortgage of land, made according to the form set forth in Schedule A, or any other mortgage of land expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B, and distinguished by any number therein, such mortgage shall have the same effect, as if it contained the form of words in Column Two of Schedule B, distinguished by the same number as is annexed to the form of words used in such mortgage; but it shall not be necessary in any such mortgage to insert any such number. Where words of column one of Schedule B are employed, the mortgage to have the same effect as if the words in column two were inserted.
R.S.O. 1897, c. 126, s. 2.

(2) Where a blank occurs in any of the forms in Column Two, such form shall be read as if it were filled in with the words which supply the place of the blank in the corresponding form in Column One. *New.*

Parties may
substitute
names or
designations.

4.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the words "Mortgagor" or "Mortgagee," any name or other designation; and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

And feminine
for masculine
gender or
plural for
singular.

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column; and corresponding changes shall be taken to be made in the corresponding forms in the second column.

And may
introduce
exceptions or
qualifications.

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or other express qualifications thereof respectively; and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column. R.S.O. 1897, c. 126, schedule B, part.

Mortgages not
taking effect
under this Act
how far valid.

5. Any such mortgage or part of such mortgage which fails to take effect by virtue of this Act shall nevertheless be as effectual to bind the parties thereto, as if this Act had not been passed. R.S.O. 1897, c. 126, s. 3.

Repeal.

6. Chapter 126 of The Revised Statutes, 1897, and all amendments thereto are repealed.

[See also Cap. 119 sec. 12.]

SCHEDULE A.

FORM OF MORTGAGE.

This Indenture, made the day of , one thousand nine hundred and , in pursuance of *The Act respecting Short Forms of Mortgages*, between (*here insert the names of parties and recitals, if any*), Witnesseth, that in consideration of of lawful money of Canada, now paid by the said mortgagee to the said mortgagor, the receipt whereof is hereby acknowledged, the said mortgagor doth grant and mortgage unto the said mortgagee, his heirs, executors, administrators and assigns for ever, all (*parcels*).

(*Here insert provisoes, covenants or other provisions.*)

In witness whereof the said parties hereto have hereunto set their-hands and seals.

R.S.O. 1897, c. 126, Sched. A.

SCHEDULE B.

COLUMN ONE.

COLUMN TWO.

1. And the said wife of the said mortgagor hereby bars her dower in the said lands.

2. Provided this mortgage to be void on payment of of lawful money of Canada, with interest at per cent., as follows:

and taxes and performance of statute labour.

3. The said mortgagor covenants with the said mortgagee.

4. That the mortgagor will pay the mortgage money and interest, and observe the above proviso.

1. And the said wife of the said mortgagor for and in consideration of the sum of one dollar of lawful money of Canada, to her in hand paid by the said mortgagee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said mortgagee, his heirs, executors, administrators and assigns, all her dower, and right and title which in the event of her surviving her said husband, she might or would have to dower, in, to, or out of the lands and premises hereby conveyed or intended so to be.

2. Provided always, and these presents are upon this express condition, that if the said mortgagor, his heirs, executors, administrators or assigns, or any of them, do and shall well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators or assigns, the just and full sum of of lawful money of Canada, with interest thereon, at the rate of per cent. per annum, on the days and times, and in manner following that is to say:

without any deduction, defalcation or abatement out of the same for or in respect of any taxes, rates, levies, charges, rents, assessments, statute labour or other impositions whatsoever already rated, charged, assessed or imposed or hereafter to be rated, charged, assessed or imposed by authority of Parliament or of the Legislature, or otherwise howsoever, on the said lands and tenements, hereditaments and premises with the appurtenances, or on the said mortgagee, his heirs, executors, administrators or assigns, in respect of the said premises, or of the said money or interest, or any other matter or thing relating to these presents, and until such default as aforesaid shall and will well and truly pay, do and perform or cause or procure to be paid, done and performed, all matters and things in this proviso hereinbefore set forth, then these presents and everything in the same contained shall be absolutely null and void.

3. And the said mortgagor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree to and with the said mortgagee, his heirs, executors, administrators and assigns, in manner following, that is to say:

4. That the said mortgagor, his heirs, executors, administrators or some or one of them shall and will well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators or assigns, the said sum of money in the above proviso mentioned, with interest for the same as aforesaid, at the days and times and in the manner above limit-

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5. That the mortgagor has a good title in fee simple to the said lands.

6. And that he has the right to convey the said lands to the said mortgagee.

7. And that on default the mortgagee shall have quiet possession of the said lands.

8. Free from all incumbrances.

ed for payment thereof, and shall and will in everything well, faithfully and truly do, observe, perform, fulfil and keep all and singular the provisions, agreements and stipulations in the said above proviso particularly set forth, according to the true intent and meaning of these presents, and of the said above proviso.

5. And also, that the said mortgagor, at the time of the sealing and delivery hereof, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the lands, tenements hereditaments and all and singular other the premises hereinbefore described, with their and every of their appurtenances and of and in every part and parcel thereof, without any manner of trusts, reservations, limitations, provisos or conditions, except those contained in the original grant thereof from the Crown or any other matter or thing to alter, charge, change, in-cumber or defeat the same.

6. And also, that the said mortgagor now hath in himself good right, full power and lawful and absolute authority to convey the said lands, tenements, hereditaments, and all and singular other the premises hereby conveyed or hereinbefore mentioned or intended so to be, with their and every of their appurtenances unto the said mortgagee, his heirs, executors, administrators and assigns, in manner aforesaid, and according to the true intent and meaning of these presents.

7. And also, that from and after default shall happen to be made of or in the payment of the said sum of money, in the said above proviso mentioned, or the interest thereof, or any part thereof, or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents, and of the said proviso, then, and in every such case, it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with their appurtenances, without the let, suit, hindrance, interruption or denial of him the said mortgagor, his heirs, executors, administrators or assigns or any other person or persons whomsoever.

8. And that free and clear and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever due or payable upon or in respect of the said lands, tenements, hereditaments and premises or any part thereof, and of and from all former conveyances, mortgages, rights, an-

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nuities, debts, executions and recognizances, and of and from all manner of other charges or incumbrances whatsoever.

9. And that the said mortgagor will execute such further assurances of the said lands as may be requisite.

9. And also, that from and after default shall happen to be made of or in the payment of the said sum of money in the said proviso mentioned, or the interest thereof, or any part of such money or interest or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents and of the said proviso, then and in every such case the said mortgagor, his heirs, executors, administrators and assigns and all and every other person or persons whosoever having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with the appurtenances or any part thereof, by, from, under or in trust for him the said mortgagor, his heirs, executors, administrators or assigns shall and will, from time to time, and at all times thereafter, at the proper costs and charges of the said mortgagee, his heirs, executors, administrators and assigns, make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances, and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the said lands, tenements, hereditaments and premises, with the appurtenances, unto the said mortgagee, his heirs, executors, administrators and assigns, as by the said mortgagee, his heirs, executors, administrators or assigns, or his or their counsel learned in the law shall or may be lawfully and reasonably devised, advised, or required, but so as no person who shall be required to make or execute such assurances shall be compelled, for the making or executing thereof, to go or travel from his usual place of abode.

10. And that the said mortgagor will produce the title deeds enumerated hereunder, and allow copies to be made at the expense of the mortgagee.

10. And also, that the said mortgagor, his heirs, executors, administrators, and assigns shall and will, unless prevented by fire or inevitable accident, from time to time, and at all times hereafter, at the request and proper costs and charges in the law of the said mortgagee, his heirs, executors, administrators, or assigns at any trial or hearing in any action or otherwise as occasion shall require, produce all, every or any deed, instrument or writing hereunder written for the manifestation, defence and support of the estate, title and possession of the said mortgagee, his heirs, executors, administrators and assigns, of, in, to or out of the said lands, tenements, hereditaments and premises hereby conveyed

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or mentioned or intended so to be, and at the like request, costs and charges shall and will make and deliver, or cause or procure to be made and delivered, unto the said mortgagee, his heirs, executors, administrators and assigns, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said mortgagee, his heirs, executors, administrators and assigns.

11. And that the said mortgagor has done no act to incumber the said lands.

11. And also that the said mortgagor hath not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, or any part or parcel thereof, are, is or shall or may be in any wise impeached, charged, affected or incumbered in title, estate or otherwise howsoever.

12. And that the said mortgagor will insure the buildings on the said lands to the amount of not less than of lawful money of Canada.

12. And also that the said mortgagor or his heirs, executors, administrators or assigns shall and will forthwith insure unless already insured, and during the continuance of this security keep insured against loss or damage by fire, in such proportions upon each building as may be required by the said mortgagee his heirs, executors, administrators or assigns, the messuages and buildings erected on the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, in the sum of of lawful money of Canada, at the least, in some insurance office to be approved of by the said mortgagee, his heirs, executors, administrators or assigns, and pay all premiums and sums of money necessary for such purpose, as the same shall become due, and will on demand assign, transfer and deliver over unto the said mortgagee, his heirs, executors, administrators or assigns, the policy or policies of insurance, receipt or receipts thereto appertaining; and if the said mortgagee, his heirs, executors, administrators or assigns, shall pay any premiums or sums of money for insurance of the said premises or any part thereof, the amount of such payment shall be added to the debt hereby secured, and shall bear interest at the same rate from the time of such payments, and shall be payable at the time appointed for the then next ensuing payment of interest on the said debt.

13. And the said mortgagor doth release to the said mortgagee all his claims upon the said lands subject to the said proviso.

13. And the said mortgagor hath released, remised and for ever acquitted claim, and by these presents doth release, remise, and for ever quit claim unto the said mortgagee, his heirs, executors, administrators and assigns, all and all manner of right, title, interest, claim and demand whatsoever, of, unto and out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, and every part and parcel

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thereof, so as that neither the said mortgagor, his heirs, executors, administrators or assigns, shall or may at any time hereafter have, claim, pretend to, challenge or demand the said lands, tenements, hereditaments and premises, or any part thereof, in any manner howsoever, subject always to the said above proviso; but the said mortgagee, his heirs, executors, administrators or assigns, and the said lands, tenements, hereditaments and premises, subject as aforesaid, shall from henceforth for ever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said mortgagor, his heirs or assigns, might or could have upon the said mortgagee, his heirs, executors, administrators or assigns, in respect of the said lands, tenements, hereditaments and premises, or upon the said lands, tenements, hereditaments and premises.

14. Provided, that the said mortgagee on default of payment for
may on
notice enter
on and lease or sell
the said lands.

14. Provided always, and it is hereby declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors or administrators, shall make default in any payment of the said money or interest or any part of either of the same, according to the true intent and meaning of these presents, and of the proviso in that behalf hereinbefore contained, and shall have thereafter elapsed without such payment being made (of which default, as also of the continuance of the said principal money and interest, or some part thereof, on this security, the production of these presents shall be conclusive evidence), it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators or assigns, after giving written notice to the said mortgagor, his heirs, executors, administrators or assigns, of his or their intention in that behalf, either personally or at his or their usual or last place of residence within this Province not less than previous, without any further consent or concurrence of the said mortgagor, his heirs, executors, administrators or assigns, to enter into possession of the said lands, tenements, hereditaments and premises hereby conveyed, or mentioned or intended so to be, and to receive and take the rents, issues and profits thereof, and whether in or out of possession of the same, to make any lease or leases thereof, or of any part thereof as he or they shall think fit, and also to sell and absolutely dispose of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, or any part or parts thereof, with the appurtenances, by public auction and partly by private contract, as to him or them shall seem meet, and to convey and assure the same when so sold unto the purchaser or purchasers thereof, his or their heirs or assigns, or as he or they shall direct and appoint and to execute and do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the said mortgagee, his heirs, executors,

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administrators or assigns shall not be responsible for any loss which may arise by reason of any such leasing or sale as aforesaid, unless the same shall happen by reason of his or their wilful neglect or default; and it is hereby further agreed between the parties to these presents, that, until such sale or sales shall be made as aforesaid, the said mortgagee, his heirs, executors, administrators, or assigns shall and will stand and be possessed of and interested in the rents and profits of the said lands, tenements, hereditaments and premises, in case he or they shall take possession of the same on any default as aforesaid, and after such sale or sales shall stand and be possessed of and interested in the moneys to arise and be produced by such sale or sales, or which shall be received by the mortgagee, his heirs, executors, administrators or assigns, by reason of any insurance upon the said premises or any part thereof, upon trust in the first place to pay and satisfy the costs and charges of preparing for and making sales, leases and conveyances as aforesaid, and all other costs and charges, damages and expenses which the said mortgagee, his heirs, executors, administrators or assigns, shall bear, sustain, or be put to for taxes, rent, insurances and repairs, and all other costs and charges which may be incurred in and about the execution of any of the trusts in him or them hereby reposed, and in the next place to pay and satisfy the principal sum of money and interest hereby secured or mentioned or intended so to be or so much thereof as shall remain due and unsatisfied up to and inclusive of the day whereon the said principal sum shall be paid and satisfied; and after full payment and satisfaction of all such sums of money and interest as aforesaid upon this further trust that the said mortgagee, his heirs, executors, administrators or assigns, do and shall pay the surplus, if any, to the said mortgagor, his heirs, executors, administrators or assigns, or as he or they shall direct and appoint, and shall also, in such event, at the request, costs and charges in the law of the said mortgagor, his heirs, executors, administrators or assigns, convey and assure unto the said mortgagor, his heirs, executors, administrators or assigns, or to such person or persons as he or they shall direct and appoint, all such parts of the said lands, tenements, hereditaments and premises as shall remain unsold for the purposes aforesaid, freed and absolutely discharged of and from all estate, lien, charge and incumbrance whatsoever by the said mortgagee, his heirs, executors, administrators or assigns, in the meantime, but so as no person who shall be required to make or execute any such assurances, shall be compelled for the making thereof to go or travel from his usual place of abode: Provided always, and it is hereby further declared and agreed by and between the parties to these presents, that notwithstanding the power of sale and other the powers and provisions contained in these pre-

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sents, the said mortgagee, his heirs, executors, administrators or assigns, shall have and be entitled to his right of foreclosure of the equity of redemption of the said mortgagor, his heirs, executors, administrators and assigns in the said lands, tenements, hereditaments and premises as fully and effectually as he or they might have exercised and enjoyed the same in case the power of sale, and the other former provisoes and trusts incident thereto had not been herein contained.

15. Provided that the mortgagee may distrain for arrears of interest.

15. And it is further covenanted, declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors or administrators, shall make default in payment of any part of the said interest at any of the days or times hereinbefore limited for the payment thereof, it shall and may be lawful for the said mortgagee, his heirs, executors, administrators or assigns, to distrain therefor upon the said lands, tenements, hereditaments and premises, or any part thereof, and, by distress warrant, to recover by way of rent reserved, as in the case of a demise, of the said lands, tenements, hereditaments and premises, so much of such interest as shall, from time to time, be, or remain in arrear and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent.

16. Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.

16. Provided always, and it is hereby further expressly declared and agreed by and between the parties to these presents, that if any default shall at any time happen to be made of or in the payment of the interest money hereby secured or mentioned, or intended so to be, or any part thereof, then and in such case the principal money hereby secured or mentioned, or intended so to be, and every part thereof, shall forthwith become due and payable in like manner and with the like consequences and effects to all intents and purposes whatsoever, as if the time herein mentioned for payment of such principal money had fully come and expired, but that in such case the said mortgagor, his heirs, executors, administrators or assigns, shall on payment of all arrears under these presents, with lawful costs and charges in that behalf, at any time before any judgment in the premises recovered or within such time as, by the practice of the High Court, relief therein could be obtained, be relieved from the consequences of non-payment of so much of the money secured by these presents, or mentioned, or intended so to be, as may not then have become payable by reason of lapse of time.

17. Provided that until default of payment the mortgagor shall have

17. And provided also, and it is hereby further expressly declared and agreed by and between the parties to these presents, and until default shall happen to be made of or in the payment of the said sum of money hereby secured or mentioned, or intended so to be, or

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quiet possession of
the said lands.

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the interest thereof, or any part of either of the same, or the doing, observing, performing, fulfilling or keeping some one or more of the provisions, agreements or stipulations herein set forth, contrary to the true intent and meaning of these presents, it shall and may be lawful to and for the said mortgagor his heirs, executors, administrators and assigns, peaceably and quietly to have, hold, use, occupy, possess and enjoy the said lands, tenements, hereditaments, and premises hereby conveyed or mentioned, or intended so to be, with their and every of their appurtenances, and receive and take the rents, issues and profits thereof to his and their own use and benefit, without let, suit, hindrance, interruption, or denial of or by the said mortgagee, his heirs, executors administrators or assigns, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for him, her, them or any or either of them.

R.S.O. 1897, c. 126, Schedule B.

No. 129

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Short Forms of
Mortgages.

First Reading	day of	1910
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Mr. Foy

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting the Surrogate Courts.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

CONSTITUTION OF THE COURTS,
ss. 3-5.

JUDGES, ss. 6-9.

SURROGATE CLERK AND REGIS-
TRARS, ss. 10-18.JURISDICTION AND POWERS OF
COURTS, ss. 19-27.

TRIALS BY JURY, s. 28.

SITTINGS, s. 29.

WITNESSES AND EVIDENCE, ss.
30, 31.REFERENCE OR REMOVAL OF CASES
TO HIGH COURT, ss. 32, 33.APPEALS TO THE COURT OF AP-
PEAL, s. 34.PROCEDURE TO OBTAIN PROBATE,
ss. 35-51.

COPIES OF WILLS, ETC., s. 52.

ADMINISTRATION OF ESTATES, ss.
53-72.

ESTATES OF SMALL VALUE, s. 73.

ANCILLARY PROBATES, ETC., s. 74.

FEES AND COSTS, ss. 75-81.

REPEAL, s. 82.

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of
Ontario, enacts as follows:—

1. This Act may be cited as "*The Surrogate Courts* Short title.
Act." R.S.O. 1897, c. 59, s. 1.

INTERPRETATION.

2. In this Act:

Interpreta-
tion.

(a) "Administration" shall include all letters of
administration of the effects of deceased persons
whether with or without the will annexed, and
whether granted for general, special or limited
purposes;

(b) "Common form business" shall mean the business
of obtaining probate or administration where
there is no contention as to the right thereto,
including the passing of probate and administra-
tion through a Surrogate Court when the con-
test is terminated, and all business of a non-
contentious nature to be taken in a Surrogate

Court in matters of testacy and intestacy not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or administration;

- "County." (c) "County" shall include Provisional Judicial District;
- "County Court." (d) "County Court" shall include District Court;
- "Matters and causes testamentary." (e) "Matters and causes testamentary" shall include all matters and causes relating to the grant and revocation of letters probate of wills or letters of administration;
- "Will." (f) "Will" shall include a testament, and all other testamentary instruments of which probate may be granted. R.S.O. 1897, c. 59, s. 2.

SURROGATE COURTS.

A Surrogate Court to be in each County. 3. There shall be in and for every County a Court of Record to be styled "The Surrogate Court of the County (or united Counties or District) of———" (inserting the name of the County or United Counties or District). R.S.O. 1897, c. 59, s. 3.

Courts to have seals. 4. Every such Court shall be provided with a suitable seal to be approved of by the Lieutenant-Governor. R.S.O. 1897, c. 59, s. 4.

Sittings, where held. 5. The sittings of the Court shall be held in the county town and shall be presided over by the judge thereof. R.S.O. 1897, c. 59, s. 5.

JUDGES.

Judge to be appointed by Lieutenant-Governor-in-Council. 6.—(1) The Judge of the Surrogate Court shall be appointed by the Lieutenant-Governor in Council and shall hold office during good behaviour and residence in the County for which he is appointed, and shall be subject to be removed by the Lieutenant-Governor in Council for inability, incapacity or misbehaviour established to his satisfaction. *New.*

(2) Every appointment of a Surrogate Court Judge heretofore made by the Lieutenant-Governor in Council is hereby declared to be as valid as if this section had been enacted at the time of his appointment. *New.*

7. The Judge of a County Court appointed before the 7th day of April, 1896, or where there are more Judges than one the Senior Judge appointed before that day shall continue to be *ex-officio* Judge of the Surrogate Court for the County. R.S.O. 1897, c. 59, s. 6, *part*.

Certain Judges of County Courts to be *ex-officio* Judges of Surrogate Courts.

8.—(1) In case of the illness or absence of the Judge of the Surrogate Court of any County or District, any Judge who has authority to preside over the County or District Court of such County or District may act as Judge of the Surrogate Court.

Illness, absence or vacancy in office of Judge.

(2) In case of a vacancy in the office of Judge of the Surrogate Court, a Judge of the County or District Court of the County or the District may act as Judge of the Surrogate Court, or if there be no such Judge of the County or District Court, or none present in the County or District, or able to act, any Judge of any other County or District Court may so act upon the written request of the Attorney-General for Ontario.

(3) A Judge of the County or District Court, while so acting, shall have all the powers and privileges and may perform all the duties of the Judge of the Surrogate Court. See R.S.O. 1897, c. 59, s. 6; 61 V., c. 14, s. 1.

Acting Judge, when entitled to fees.

(4) Except in the case of a vacancy, where a Judge so acts he shall not be entitled to the fees unless with the consent of the Judge of the Surrogate Court. 61 V. c. 14, s. 2.

Resignation of County Judge to include Judgeship of Surrogate Court.

(5) Where a Judge of a County Court who is also Judge of the Surrogate Court vacates his County Court Judgeship, unless the Lieutenant-Governor in Council otherwise directs, he shall thereby vacate his Judgeship of the Surrogate Court. 3 Edw. VII. c. 7, s. 11.

9. Every Judge of a Surrogate Court, before entering upon the duties of his office, shall take and subscribe the following oath before some person appointed by the Lieutenant-Governor to administer the same, that is to say:

Oath of Judge.

"I, _____, do swear that I will truly and faithfully, according to the best of my skill and knowledge, execute the duties, powers and trusts of Judge of the Surrogate Court of the County (or United Counties or District), of
So help me God."

R.S.O. 1897, c. 59, s. 7.

SURROGATE CLERK AND REGISTRARS.

Surrogate
Clerk to be
appointed—
his duties.

10. There shall be an officer, to be called the Surrogate Clerk, who shall be deemed an officer of the High Court, and shall be appointed by the Lieutenant-Governor in Council. 7 Edw. VII. c. 59, s. 8.

Registrar.

11. There shall be a Registrar for every Court who shall be appointed by the Lieutenant-Governor in Council. See 7 Edw. VII. c. 23, s. 3.

Oath of
Registrar.

12. Every Registrar, before entering upon the duties of his office, shall take and subscribe the following oath:

"I, _____, do swear that I will diligently and faithfully execute the office of Registrar of the Surrogate Court of the _____, and that I will not knowingly permit or suffer any alteration, obliteration or destruction to be made or done, of any will or testamentary paper, or other document or paper committed to my charge. So help me God."

R.S.O. 1897, c. 59, s. 11.

Security to be
given by
Registrars.

13. Every Registrar, before entering upon the duties of his office, shall furnish such security as may be required by the Lieutenant-Governor in Council for the due performance of the duties of his office, and the provisions of *The Public Officers Act* relating to the giving of security shall apply to such security. R.S.O. 1897, c. 59, s. 12.

9 Edw. VII.,
c. 5.

Registrar's
office.

14.—(1) The Registrar shall keep his office in the Court House of the county, and a room therein shall be provided for that purpose, and, in the event of there being no available room therein, then at such place in the county town as the Judge directs.

Registrar of
Essex.

(2) The Registrar of the Surrogate Court of the County of Essex may keep an office in some convenient place in the City of Windsor, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval of the Lieutenant-Governor in Council. R.S.O. 1897, c. 59, s. 13.

Office to be a
depository for
the wills of
living persons.

15. The office of the Registrar shall be a depository for all wills of living persons given to him for safe keeping, and the Registrar shall receive and keep the same upon payment of such fees and under such regulations as may be prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 13 (1), *part*.

Registrars to
preserve tes-
tamentary in-
struments,
papers, etc.

16. The Registrar shall file and preserve all original wills of which probate or letters of administration with the will annexed are granted and all other papers used in any

matter in his Court, subject to such regulations as may be prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 14.

17. On the third day of every month, or oftener if required by the Surrogate Court Rules, every Registrar shall transmit by mail to the Surrogate Clerk a list, in such form and containing such particulars as may be prescribed by such Rules, of the grants of probate and administration made by his Court up to the last day of the preceding month, and also a copy, certified by him to be a correct copy, of every will to which the same relate, and he shall in like manner make a return of every revocation of grant of probate or administration. R.S.O. 1897, c. 59, s. 15.

Registrars to transmit to Surrogate Clerk list of probates, etc.

18. Neither the Surrogate Clerk nor a Registrar shall for fee or reward draw or advise upon any will, or upon any paper or document connected with the duties of his office, for which a fee is not expressly allowed to him by the tariff. R.S.O. 1897, c. 59, s. 16.

Surrogate Clerk and Registrars not to take fees for drawing or advising on certain documents.

[For returns by Registrars of Surrogate Courts, see Chap. 16, sec. 29.]

JURISDICTION AND POWERS OF THE SURROGATE COURTS.

19. Subject to the provisions of *The Judicature Act*, all jurisdiction and authority, voluntary and contentious, in relation to matters and causes testamentary, and in relation to the granting or revoking probate of wills and letters of administration of the property of deceased persons, and all matters arising out of or connected with the grant or revocation of grant of probate or administration, shall be exercised in the name of His Majesty, in the several Surrogate Courts. R.S.O. 1897, c. 59, s. 17.

Testamentary jurisdiction to be exercised by the Surrogate Courts.

20. Every Surrogate Court shall have full power, jurisdiction and authority:

Powers and jurisdiction of Surrogate Courts.

- (a) To issue process and hold cognizance of all matters relating to the granting probate of wills and letters of administration, and to grant probate of wills and letters of administration of the property of persons dying intestate, and to revoke the same; and
- (b) To hear and determine all questions, causes and suits in relation to such matters, and to all matters and causes testamentary. R.S.O. 1897, c. 59, s. 18.

The same as
in former
Court of Pro-
bate for
Upper Canada.

21.—(1) Subject to the provisions herein contained, every such Court shall also have the same powers and the grants and orders of such Court shall have the same effect throughout Ontario, as the former Court of Probate for Upper Canada and its grants and orders respectively had in relation to the personal estate of deceased persons and to causes testamentary within its jurisdiction; and all duties which by statute or otherwise were imposed on or exercised by such Court of Probate or the Judge thereof in respect of probates, administrations and matters and causes testamentary, and the appointment of guardians and otherwise, shall be performed by the Surrogate Courts and the Judges thereof, within their respective jurisdictions.

No action for
legacy or dis-
tribution of
residue.

(2) An action for a legacy or for the distribution of a residue shall not be entertained by any Surrogate Court. R.S.O. 1897, c. 59, s. 18.

Administra-
tion not to be
granted to
non-resident.

22. Letters of administration shall not be granted to a person not resident in Ontario, but this shall not apply to resealing letters under section 74. 9 Edw. VII. c. 32, s. 2.

Probate or
letters ancil-
lary to per-
sons not resid-
ing in British
Dominions.

23. Letters probate shall not be granted to a person not resident in Ontario or elsewhere in the British Dominions, unless such person shall have given the like security as is required from an administrator in case of intestacy unless, in the opinion of the Judge, such security should, under special circumstances, be dispensed with or be reduced in amount. 9 Edw. VII. c. 32, s. 2.

To what par-
ticular Court
the grant of
probate or
administration
shall belong.

24.—(1) The granting of probate or letters of administration shall belong to the Surrogate Court of the county in which the testator or intestate had at the time of his death his fixed place of abode.

(2) If the testator or intestate had no fixed place of abode in, or resided out of, Ontario at the time of his death, the grant may be made by the Surrogate Court of any county in which the testator or intestate had property at the time of his death.

(3) In other cases the granting of probate or letters of administration shall belong to the Surrogate Court of any county. R.S.O. 1897, c. 59, s. 19.

Where Surro-
gate Judge is
entitled to
probate, appli-
cation to be
made to
Judge in
adjoining
county.

25.—(1) Where the person or one of the persons entitled to apply for probate of will or for letters of administration is Judge of the Court having jurisdiction in the matter, and he does not renounce, application by him for such probate or letters, and any subsequent application in the matter of the estate by him or by any other person may be made

to the Judge of the Surrogate Court for an adjoining county, who shall have the same authority as to such application, and generally in all matters connected with the estate, as if he were the Judge of the Surrogate Court having jurisdiction, and he shall be entitled to the same fees, to be paid in stamps if his fees have been commuted, as he would have been entitled to if the application had been made or proceedings had been taken in the Court of which he is Judge.

(2) All proceedings shall be carried on in the Surrogate Court having jurisdiction. R.S.O. 1897, c. 59, s. 20.

26. Letters probate and letters of administration granted by a Surrogate Court not having jurisdiction to grant the same shall nevertheless until revoked have the same force and effect as if they had been granted by a Surrogate Court having jurisdiction. *New.* Effect of probate or letters granted without jurisdiction.

27.—(1) Letters probate and letters of administration shall have effect over the property of the deceased in all parts of Ontario. R.S.O. 1897, c. 59, s. 21. Effect of probate and administration.

(2) This section shall be subject to the provisions of section 57 and to the provisions contained in the letters probate or letters of administration.

POWER TO TRY BY JURY.

28.—(1) The Court may cause any question of fact arising in any proceeding therein to be tried by a jury before the Judge of the Court; and such trial shall take place at some ensuing sittings of the County Court for the County and be conducted in the same manner as other trials by jury in such Court, and the parties shall be entitled to their right of challenge; and, for all purposes of or incidental to the trial of questions of fact by a jury, the Court and the Judge thereof shall have the same jurisdiction, power and authority in all respects as belong to the County Courts, and the Judges thereof, for like purposes. R.S.O. 1897, c. 59, s. 22. Courts may cause questions of fact to be tried by a jury.

(2) The question directed to be tried by a jury shall be reduced into writing in such form as the Court directs. R.S.O. 1897, c. 59, s. 23. Procedure on trial.

SITTINGS.

29.—(1) There shall be four sittings in each year for hearing and determining matters and causes in contentious cases and business of a contentious nature, which, except in Sittings prescribed.

the County of York, shall commence on the second Monday in January and the first Monday in April, July and October.

In the County
of York.

(2) The sittings in the County of York shall commence on the second Monday in January, June and October, and the first Monday in April in each year. R.S.O. 1897, c. 59, s. 24.

WITNESSES, EVIDENCE, PROCEDURE AND PRACTICE.

Evidence,
practice and
procedure.

30. The rules of evidence observed in and, except as herein otherwise provided and subject to the Surrogate Court Rules in contentious matters, the practice and procedure of the High Court shall apply to the Surrogate Courts, and, with respect to all matters within the jurisdiction of the Surrogate Courts, such Courts and the Judges and officers thereof respectively shall have and may exercise all the powers of the High Court and of the Judges and officers thereof. *New.*

Orders and
proceedings in
respect to the
production of
instruments
purporting to
be testa-
mentary.

31.—(1) Whether any suit or other proceeding is or is not pending in the Court with respect to any probate or administration, every Surrogate Court may, on motion or otherwise in a summary way, order any person to produce and bring before the Registrar, or otherwise as the Court may direct, any paper or writing being or purporting to be testamentary which is shewn to be in the possession or under the control of such person.

Examination
of persons
touching such
instruments.

(2) If it is not shewn that such paper or writing is in the possession or under the control of such person, but it appears that there are reasonable grounds for believing that he has knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined in open Court or before the Registrar or such person as the Court may direct, or upon interrogatories respecting the same, and to produce and bring in such paper or writing, and such person shall be subject to the like process in case of default in not attending or in not answering questions or interrogatories or not bringing in such paper or writing, as he would have been subject to if he had been a party to a suit in the Court and had made such default; and the costs of such motion or other proceedings shall be in the discretion of the Court. R.S.O. 1897, c. 59, s. 26.

REFERENCE OR REMOVAL TO THE HIGH COURT.

In cases of
contention,
the matter
may, by con-

32. Where there is a contention as to the grant of probate or administration, and the parties agree, the contention shall be referred to and determined by the High Court

on a case to be stated, and the probate or administration shall not be granted until the contention is terminated and disposed of by judgment, or otherwise. R.S.O. 1897, c. 59, s. 33.

33.—(1) Where in any cause or proceeding any contention arises as to the grant of probate or administration, or any question is raised as to law or facts relating to matters and causes testamentary, the same may be removed into the High Court by order of a Judge of such Court, made on motion supported by affidavit, and on notice to the other parties concerned.

In certain cases of contention, matter may be removed into High Court.

(2) The Judge may impose such terms as to payment of or security for costs or otherwise as he may deem just.

Terms as to costs.

(3) No cause or proceeding shall be removed unless it is of such a nature and of such importance as to render it proper that the same should be disposed of by the High Court, nor unless the property of the deceased exceeds \$2,000 in value. R.S.O. 1897, c. 59, s. 34.

Certain cases not to be so removed.

(4) The final order or judgment of the High Court in any cause or proceeding so removed shall, for the guidance of the Surrogate Court, be transmitted by the Surrogate Clerk to the Registrar of the Surrogate Court from which the cause or proceeding was removed. R.S.O. 1897, c. 59, s. 35.

Transmission of final order to Surrogate Court.

APPEALS TO THE HIGH COURT.

34.—(1) Any person who deems himself aggrieved by an order, determination or judgment of a Surrogate Court, in any matter or cause, may appeal therefrom to a Divisional Court of the High Court.

Persons considering themselves aggrieved by any judgment, etc., may appeal to the High Court.

(2) No such appeal shall lie unless the value of the property to be affected by such order, determination or judgment exceeds \$200. R.S.O. 1897, c. 59, s. 36.

Appeals not to lie in certain cases.

(3) The practice and procedure upon and in relation to an appeal shall be the same as is provided by *The County Courts Act* as to appeals from the County Court. *New.*

(4) A motion for a new trial after a trial by jury under section 28 shall be deemed an appeal and shall be made to a Divisional Court. *New.*

PRACTICE.

Proofs to lead grant.

Proof, etc.,
requisite for
obtaining
grant of pro-
bate or ad-
ministration
where decess-
ed resided in
Ontario.

35. On every application for probate of a will or for letters of administration where the deceased was resident in Ontario at the time of his death, his place of abode at the time of his death shall be made to appear by affidavit of the person or one of the persons making the application; and thereupon and upon proof of the will, or in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1897, c. 59, s. 38.

When testa-
tor, etc., had
no fixed place
of abode in or
resided out of
Ontario, upon
what proof
probate or ad-
ministration
to be granted,
etc.

36. On every application for probate of a will or for letters of administration where the deceased had no fixed place of abode in or resided out of Ontario at the time of his death, the same shall be made to appear by affidavit of the person or one of the persons making the application, and that the deceased died leaving property within the county to the Surrogate Court of which the application is made, or leaving no property in Ontario, as the case may be, and that notice of the application has been published at least three times successively in the *Ontario Gazette*; and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1897, c. 59, s. 39.

Affidavit
grounding ap-
plication for
grant to be
conclusive for
exercise of
jurisdiction if
acted on.

37. The affidavit as to the place of abode and property of the deceased under the next preceding two sections, for the purpose of giving a particular Court jurisdiction, shall be conclusive for the purpose of authorizing the exercise of such jurisdiction; and no grant of probate or administration shall be liable to be recalled, revoked or otherwise impeached by reason that the deceased had no fixed place of abode within the particular county, or had not property therein at the time of his death; but in case it is made to appear to the Judge of a Surrogate Court before whom the application is pending, that the place of abode of the deceased, or the situation of his property, has not been correctly stated in the affidavit, the Judge may stay all further proceedings and make such order as to the costs of the proceedings before him as he may deem just. R.S.O. 1897, c. 59, s. 40.

Judge
may stay pro-
ceedings in
case of incor-
rect state-
ment.

Proof, etc.,
requisite for
obtaining
grant to party
not next of
kin to intes-
tate.

38. Where application is made for letters of administration by a person not entitled to the same as next of kin of the deceased, an order shall be made requiring the next of kin or others having or pretending interest in the property

of the deceased, resident in Ontario, to shew cause why the administration should not be granted to the person applying therefor; and if neither the next of kin nor any person of the kindred of the deceased resides in Ontario, a copy of the order shall be served or published in the manner prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 41.

39.—(1) If the next of kin, usually residing in Ontario and regularly entitled to administer, is absent from Ontario, the Court having jurisdiction may grant a temporary administration to the applicant, or to such other person as the Court thinks fit, for a limited time, or subject to be revoked upon the return of such next of kin to Ontario. R.S.O. 1897, c. 59, c. 42.

Temporary administration in certain cases.

(2) The administrator so appointed shall give such security as the Court directs, and shall have all the rights and powers of a general administrator, and shall be subject to the immediate control of the Court. R.S.O. 1897, c. 59, s. 43.

Security to be given.

Notice of Applications.

40. Notice of every application for the grant of probate or administration shall be transmitted by the Registrar, by registered post, to the Surrogate Clerk by the next post after the application, and the notice shall specify the name and description or addition, if any, of the deceased, the time of his death, and the place of his abode at his decease, as stated in the affidavits made in support of the application, and the name of the person by whom the application is made, and such other particulars as may be prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 44.

As to transmission of notice of applications for grants of probates, etc., to Surrogate Clerk by Registrars.

41. Unless upon special order of the Court, no probate or administration shall be granted until the Registrar has received a certificate, under the hand of the Surrogate Clerk, that no other application appears to have been made in respect of the property of the deceased, which certificate the Surrogate Clerk shall forward as soon as may be to the Registrar. R.S.O. 1897, c. 59, s. 45.

Proceeding to be stayed till certificate received from Surrogate Clerk.

42. All notices in respect of applications shall be filed and kept by the Surrogate Clerk. R.S.O. 1897, c. 59, s. 46.

Surrogate Clerk to file notices.

43. The Surrogate Clerk shall, with reference to every such notice, examine all notices of such applications received from the several Registrars, so far as appears to be necessary to ascertain whether or not application for probate or admini-

Duty of Surrogate Clerk with reference to notices.

stration in respect of the property of the deceased has been made in more than one Surrogate Court, and he shall communicate with the Registrars as occasion may require in relation to such applications. R.S.O. 1897, c. 59, s. 47.

Proceedings if application has been made to more than one Surrogate Court.

44.—(1) Where it appears by the certificate of the Surrogate Clerk that application for probate or administration has been made to two or more Surrogate Courts, the Judges of such Courts respectively shall stay proceedings therein, leaving the parties to apply to a Judge of the High Court for such direction in the matter as he may deem necessary. R.S.O. 1897, c. 59, s. 48.

Judgment as to what Court shall have jurisdiction.

(2) On application made to such Judge of the High Court he shall inquire into the matter in a summary way, and adjudge and determine what Surrogate Court has jurisdiction. R.S.O. 1897, c. 59, s. 49.

Order as to costs.

(3) The Judge of the High Court may order costs to be paid by any of the applicants, and the order shall be enforced by the High Court. R.S.O. 1897, c. 59, s. 50.

Judge's decision to be final.

(4) The determination of the Judge shall be final and conclusive, and the Surrogate Clerk shall without delay transmit a certified copy of the Judge's order to the Registrars of the Surrogate Courts wherein such applications were made. R.S.O. 1897, c. 59, s. 51.

Caveats.

Practice respecting caveats.

45. Caveats against the grant of probate or administration may be lodged with the Surrogate Clerk or with the Registrar of any Surrogate Court. R.S.O. 1897, c. 59, s. 52.

Notice of caveats to be transmitted to the proper Surrogate Courts.

46. Upon a caveat being lodged, the Registrar shall without delay send a copy thereof to the Surrogate Clerk to be entered among the caveats lodged with him and, upon notice of an application being received from the Registrar of a Surrogate Court under section 40, the Surrogate Clerk shall without delay forward to him notice of any caveat that has been so lodged touching such application, and the notice shall accompany or be embodied in the certificate mentioned in section 41. R.S.O. 1897, c. 59, s. 53.

Proof of Wills in Solemn Form.

Where a will affecting real estate is proved in

47. Where proceedings are taken for proving a will in solemn form, or for revoking the probate of a will on the ground of the invalidity thereof, or where in any other

contentious cause or matter the validity of a will is disputed, all persons having or pretending to have any interest in the property affected by the will, may, subject to the provisions of this Act and to the Surrogate Court Rules, be summoned to see the proceedings, and may be permitted to become parties, subject to such Rules and to the discretion of the Court. R.S.O. 1897, c. 59, s. 54.

solemn form, or is the subject of contentious proceedings, heirs, etc., may be cited.

EXECUTORS.

48. The Court having jurisdiction may summon any person named executor of any will to prove or refuse to prove such will, and to bring in inventories and to do every other thing necessary or expedient concerning the same. 21 Hen. 8, c. 5, s. 6; R.S.O. 1897, c. 337, s. 1.

Surrogate Judge may cite executor named in will to prove or renounce.

49. When an executor survives the testator, but dies without having taken probate, and when an executor is summoned to take probate, and does not appear, his right in respect of the executorship shall wholly cease, and the representation to the testator, and the administration of his property, shall and may, without any further renunciation, go, devolve, and be committed in like manner as if such person had not been appointed executor. Imp. Act 21 and 22 Vict. c. 95, s. 16. R.S.O. 1897, c. 337, s. 2.

An executor not acting or not appearing to a citation, to be treated as if he had renounced.

INFANT EXECUTORS.

50. Where an infant is sole executor, administration with the will annexed shall be granted to the guardian of such infant, or to such other person as the Court shall think fit, until such infant shall have attained the full age of twenty-one years, at which period, and not before, probate of the will may be granted to him. Imp. Act 38 Geo. 3, c. 87, s. 6; R.S.O. 1897, c. 337, s. 3.

Where an infant sole executor, administration to be granted to the guardian, etc.

51. The person to whom such administration is granted shall have the same powers as an administrator has by virtue of an administration granted to him *durante minore aetate* of the next of kin. Imp. Act 38, Geo. 3, c. 87, s. 7; R.S.O. 1897, c. 337, s. 4.

Who shall have the same power as where administration is granted *durante minore aetate* of the next of kin.

COPIES OF WILLS.

52. An official copy of the whole or any part of a will or an official certificate of the grant of any letters of administration, may be obtained from the Registrar on payment of the prescribed fees. R.S.O. 1897, c. 59, s. 55.

Official copy of the whole or part of a will may be obtained.

ADMINISTRATION PENDENTE LITE.

Administration pendente lite may be granted.

Rights and powers of the administrator.

53. Pending an action touching the validity of the will of any deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the Surrogate Court having jurisdiction to grant administration in the case of intestacy may appoint an administrator of the property of the deceased person; and the administrator so appointed shall have all the rights and powers of a general administrator other than the right of distributing the residue of the property; and every such administrator shall be subject to the immediate control and direction of the Court; and the Court may direct that such administrator shall receive out of the property of the deceased such reasonable remuneration as the Court may deem proper. R.S.O. 1897, c. 59, s. 56.

ADMINISTRATORS.

To what persons administration shall be granted.

54.—(1) Subject to the provisions of subsection 2, where a person dies intestate, or the executor named in his will refuses to prove the same, administration of the property of the deceased may be committed by the Surrogate Court having jurisdiction, to the husband, or to the wife, or to the next of kin, or to the wife and next of kin as in the discretion of the Court shall seem best; and where more persons than one claim the administration as next of kin who are equal in degree of kindred to the deceased, or where one only desires the administration as next of kin, where there are more persons than one of equal kindred the administration may be committed to such one or more of such next of kin as the Court may think fit. 31 Ed. 3, St. 1, c. 11 and 21 Hen. 8, c. 5, s. 2, and Common Law; R.S.O. 1897, c. 337, s. 5.

General power as to appointment of administrator under special circumstances.

(2) Where a person dies wholly intestate as to his property, or leaving a will affecting property, but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death of such person resident out of Ontario, and it appears to the Court to be necessary or convenient by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the property of the deceased, or of any part of such property, other than the person who if this subsection had not been enacted would have been entitled to the grant of administration, it shall not be obligatory upon the Court to grant administration to the person who if this subsection had not been enacted would have been entitled to a grant thereof, but the Court may appoint such person as the Court thinks

fit upon his giving such security as the Court directs, and every such administration may be limited as the Court thinks fit. R.S.O. 1897, c. 59, s. 59.

55. After a grant of administration no person shall have power to sue or prosecute any action, or otherwise act as executor of the deceased as to the property comprised in or affected by such grant or administration, until such administration has been recalled or revoked. R.S.O. 1897, c. 59, s. 60.

After grant of administration no person to act as executor.

56. An administrator appointed by the Surrogate Court to administer the estate of a deceased person shall be entitled to sue for, and recover, the debts and other property of the deceased, and shall be accountable for the due administration of the same in like manner as an executor. 31 Ed. 3, St. 1, c. 11; R.S.O. 1897, c. 337, s. 6.

Administrators to be entitled to recover property of deceased and to be accountable therefor as executors.

57. A person entitled to letters of administration to the property of a deceased person shall be entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. R.S.O. 1897, c. 59, s. 61.

Administration limited to personal estate.

INVENTORIES.

58.—(1) The person applying for a grant of probate, or administration, shall, before the same is granted, make or cause to be made and delivered to the Registrar a true and perfect inventory verified by the oath of the applicant of all the property which belonged to the deceased at the time of his death. 21 Hen. 8, c. 5, s. 4.

Inventory to be filed by person applying for probate, or administration.

(2) When after the grant of probate, or letters of administration, any property belonging to the deceased at the time of his death, and not included in such inventory, is discovered by the executor, or administrator, he shall, within six months thereafter, make and deliver to the Registrar an inventory, duly verified by oath, of such newly discovered property. *New.*

Further inventory of subsequently discovered property.

(3) Where the application or grant is limited to part only of the property of the deceased it shall be sufficient to set forth in such inventory the property intended to be affected by such application or grant. R.S.O. 1897, c. 337, s. 9.

Inventory in case of limited grant.

EXECUTOR RENOUNCING.

59. Where a person renounces probate of the will of which he is appointed an executor his rights in respect of

Right of executor renouncing probate, to cease absolutely.

the executorship shall wholly cease, and the representation to the testator and the administration of his property shall and may, without any further renunciation, go, devolve and be committed in like manner as if such person had not been appointed executor. R.S.O. 1897, c. 59, s. 65.

REMOVAL OF EXECUTOR OR ADMINISTRATOR.

Power to remove executors or administrators in certain cases.

60.—(1) The Surrogate Court by which the grant of probate or letters of administration was made shall, where the entire estate left by the deceased does not exceed \$1,000, have the like authority for the removal of an executor or administrator and to appoint some other proper person to act in his place as is possessed by the High Court, but nothing in this section shall affect the jurisdiction of a Surrogate Court to revoke a grant of probate or of letters of administration.

The place of executor so removed need not necessarily be filled up.

(2) Where the executor or administrator removed is not a sole executor or administrator the Court need not, unless it sees fit, appoint any person to act in the room of the person removed, and, if no such appointment is made, the rights and estate of the executor or administrator removed shall pass to the remaining executor or administrator as if the person so removed had died.

Executor of an executor.

(3) The executor of a person appointed an executor under this section shall not by virtue of such executorship be an executor of the estate of which his testator was appointed executor under this section, whether such person acted alone or was the last survivor of several executors. R.S.O. 1897, c. 59, s. 66.

Order for removal.

61. A certified copy of the order of removal shall be filed with the Surrogate Clerk and another copy with the Registrar of the Court by which probate or administration was granted, and such officers shall, at or upon the entry of the grant in the registers in their respective offices, make in red ink a short note giving the date and effect of the order, and shall also make a reference thereto in the index of the register at the place where such grant is indexed. R.S.O. 1897, c. 59, s. 67.

SECURITIES.

Persons receiving grants of administration to give bonds, etc.

62. Except where otherwise provided by law, every person to whom a grant of administration, including administration with the will annexed, is committed shall give a bond to the Judge of the Surrogate Court by which the grant is made, to enure for the benefit of the Judge of the

Court for the time being, or in case of the separation of counties, to enure for the benefit of any Judge of a Surrogate Court to be named by the High Court for that purpose, with a surety or sureties as may be required by the Judge, conditioned for the due collecting, getting in, administering and accounting for the property of the deceased, and the bond shall be in the form prescribed by the Surrogate Court Rules; and in cases not provided for by the Rules, the bond shall be in such form as the Judge may by special order direct. R.S.O. 1897, c. 59, s. 69.

63.—(1) The bond shall be in a penalty of double the amount under which the property of the deceased has been sworn, unless the Judge directs that the same shall be reduced, and the Judge may also direct that more bonds than one may be given, so as to limit the liability of any surety to such amount as the Judge deems proper. R.S.O. 1897, c. 59, s. 70.

Penalty in bonds, etc., and as to dividing liabilities of sureties.

(2) The amount of the security may from time to time be reduced by the Judge to double the amount of the property remaining in the hands of the administrator according to the last audit of his accounts by the Judge. *New.*

Amount of security may be reduced.

64. The Judge on application made in a summary way, and on being satisfied that the condition of the bond has been broken, may order the Registrar to assign the bond to some person to be named in the order, and such person shall thereupon be entitled to sue on the bond in his own name, as if the same had been originally given to him, and shall recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond. R.S.O. 1897, c. 59, s. 71.

Power of Surrogate Courts as to assignment of bonds.

65. The oaths to be taken by executors, administrators and guardians, and the bonds or other security to be given by administrators and guardians and probates, letters of administration and letters of guardianship shall require the executor, administrator or guardian to render a just and full account of his executorship, administration or guardianship only when thereunto lawfully required. 2. Edw. VII. c. 12, s. 11 (3).

Form of oath of executor, etc.

66. Where a surety for an administrator or guardian dies or becomes insolvent or where for any other reason the security furnished by an administrator or guardian becomes inadequate or insufficient the Judge may require other or additional security to be furnished and if the same is not furnished as directed by the Judge he may revoke the grant of administration or letters of guardianship. The order may be made by the Judge *sua sponte* or on the application of any person interested. *New.*

Judge may require new or additional security to be given in certain cases.

Judge may allow substitution of security.

67.—(1) Where a surety for an administrator or guardian desires to be discharged from his obligation, or where an administrator or guardian desires to substitute other security for that furnished by him the Judge may allow other security to be furnished in lieu of that of such surety or of the security so furnished on such terms as to the Judge may seem proper and may direct that on the substituted security being furnished and if the Judge so directs, the accounts of the administrator or guardian being passed, the surety or sureties be discharged.

(2) The application may be made *ex parte* or on such notice as the Judge directs. *New.*

On final accounting security may be cancelled.

68. Where an administrator has passed his final account and has paid into Court or distributed the whole of the property of the deceased which has come to his hands the Judge may direct the bond or other security furnished by the administrator to be delivered up to be cancelled. *New.*

[*As to bonds of guarantee companies see 9 Edw. VII. c. 67.*]

CONTESTATION OF CLAIMS AGAINST ESTATE.

Notice of contestation of claim against estate.

69.—(1) Where a claim or demand is made against the estate of a deceased person which, in the opinion of his personal representative, is unjust, in whole or in part, such personal representative may, at any time before payment, serve the claimant with a notice in writing that he contests the same in whole or in part, and, if in part, stating what part and also referring to this section.

Application to Judge for order allowing claim.

(2) The claimant may thereupon apply to the Judge of the Surrogate Court out of which the probate or letters of administration to the estate issued for an order allowing his claim and determining the amount thereof, and if he does not make such application within thirty days after receiving the notice, or within such further time as the Judge may allow, he shall be deemed to have abandoned his claim, and the same, or so much thereof as is contested, shall be forever barred.

Notice of application to be given to personal representative and others.

(3) Notice of the application shall be given to the personal representative, to such of the persons beneficially interested in the estate as the Judge may direct, and, if infants are interested therein, to the Official Guardian, and they or any of them and any other person beneficially interested in the estate shall have the right to be heard and to take part in the proceedings, and, where an appeal lies, to appeal from any order that may be made.

(4) The Judge shall have the same power and authority as if the claim of the creditor were a claim made under a reference to a Master, Local Master or Official Referee in an administration action or under an administration order, and his order, if the amount of the claim or the part of it which is contested exceeds \$200, shall be subject to appeal as provided by section 34, and the order upon being filed with the County Court of the County shall, irrespective of the amount, become and may be enforced in like manner as a judgment of that Court.

Judge may deal with claim as on a reference to a Master or Referee.

(5) Where the claim or the part of it which is contested amounts to \$500 or more, instead of proceeding as provided by this section, the Judge shall, on the application of either party, or of any of the parties mentioned in subsection 3, direct the creditor to bring an action in the High Court for the recovery of his claim on such terms and conditions as the Judge may deem just.

Where claim is \$500 or more leave may be granted to bring an action.

(6) The fees payable to the Judge and to the Registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested. 9 Edw. VII., c. 32, s. 1.

Fees of Judge and Registrar.

ACCOUNTS OF EXECUTOR, ADMINISTRATOR OR GUARDIAN.

70. An executor who is also a trustee under the will may be required to account for his trusteeship in the same manner as he may be required to account in respect of his executorship. *New.*

Accounting by executor trustee.

71.—(1) Where an executor, administrator, trustee under a will of which he is is an executor or a guardian, has filed in the proper Surrogate Court an account of his dealings with the estate and the Judge has approved thereof, in whole or in part, if he is subsequently required to pass his accounts in the High Court, such approval, except so far as mistake or fraud is shown, shall be binding upon any person who was notified of the proceedings taken before the Surrogate Judge, or who was present or represented thereat, and upon every one claiming under any such person. R.S.O. 1897, c. 59, s. 72; 2 Edw. VII. c. 12, s. 11 (1).

Approval of accounts by Surrogate Judge to be binding in High Court.

(2) A guardian appointed by the Surrogate Court may pass the accounts of his dealings with the estate before the Judge of the Court by which letters of guardianship were issued. 2 Edw. VII. c. 12, s. 11 (2).

Passing accounts by guardians.

(3) The Judge, on passing the accounts of an executor, administrator or such a trustee, shall have jurisdiction to enter into and make full enquiry and accounting of and

Powers of judge on passing accounts.

concerning the whole property which the deceased was possessed of or entitled to, and the administration and disbursement thereof, in as full and ample a manner as may be done in the Master's Office under an administration order and, for such purpose, may take evidence and decide all disputed matters arising in such accounting subject to an appeal under section 34.

Notice to
persons
interested.

(4) The persons interested in the taking of such accounts or the making of such enquiries shall, if resident within Ontario, be entitled to not less than seven days' notice thereof, and, if resident out of Ontario, shall be entitled to such notice as the Judge shall direct. 5 Edw. VII. c. 14, s. 1.

Where an
infant or
lunatic is
interested.

(5) Where an infant or a lunatic is interested the Official Guardian shall be entitled to the like notice and to attend and to represent the infant or lunatic. *New.*

Executors or
administra-
tors not
compellable
to account
(except by
inventory) but
at the instance
of persons
interested.

72.—(1) Neither an executor nor an administrator shall be required by any Court to render an account of the property of the deceased, otherwise than by an inventory thereof, unless at the instance or on behalf of some person interested in such property or of a creditor of the deceased, nor shall such executor or administrator be otherwise compellable to account before any Judge.

(2) This section shall apply notwithstanding any provision to the contrary of any bond or security heretofore given by the executor or administrator. 1. Jac. 2, c. 17, s. 6; R.S.O. 1897, c. 337, s. 7.

ESTATES OF SMALL VALUE.

When estate
not over \$400
Registrar to
prepare
papers.

73.—(1) Where the whole property of the deceased does not exceed in value \$400 the Registrar, upon the application of any person entitled to probate or administration, shall prepare the necessary papers to lead the grant, and in the case of administration the administration bond, and administer all necessary oaths and the only fees payable in respect thereof and of the grant of probate or administration shall be those mentioned in subsection 3. R.S.O. 1897, c. 57, s. 74.

Judge to be
satisfied that
the value of
the estate is
less than
\$400.

(2) If the Judge has reason to believe that the whole property of which the deceased died possessed exceeds in value \$400, he shall refuse to proceed with the application until he is satisfied as to the real value thereof. R.S.O. 1897, c. 59, s. 75.

(3) Such fees as the Lieutenant-Governor in Council may prescribe, shall be payable to the Judge and Registrar, on proceedings under this section, but the total amount for all proceedings and services to be charged to an applicant shall not exceed \$2. R.S.O. 1897, c. 59, s. 76. Scale of fees.

(4) Where the whole property of the deceased exceeds in value \$400, but does not exceed \$1,000, the fees payable to the Registrar and to the Judge on proceedings under this Act, in non-contentious cases, shall be one-half of the fees payable according to the tariffs in the case of an estate not exceeding in value \$1,000. R.S.O. 1897, c. 59, s. 77. Fees of Registrar and Judge when estate under \$1,000.

ANCILLARY PROBATES AND LETTERS OF ADMINISTRATION.

74.—(1) Where probate or letters of administration, or other legal document purporting to be of the same nature, granted by a Court of competent jurisdiction in the United Kingdom, or in any Province or territory of the Dominion, or in any other British possession, is produced to, and a copy thereof deposited with the Registrar of any Surrogate Court, and the prescribed fees are paid as on a grant of probate or administration, the probate or letters of administration, or other document shall, under the direction of the Judge, be sealed with the seal of the Surrogate Court, and shall thereupon be of the like force and effect in Ontario, as if the same had been originally granted by such Surrogate Court, and shall, so far as regards Ontario, be subject to any order made by such Court, or on appeal therefrom, as if the probate or letters of administration had been granted thereby. R.S.O. 1897, c. 59, s. 78. Manner of giving effect to grants of probate, etc., of English or Colonial Courts.

(2) The letters of administration shall not be sealed with the seal of the said Surrogate Court until a certificate has been filed under the hand of the Registrar of the Court which issued the letters, that security has been given in such Court in a sum of sufficient amount to cover as well the assets within the jurisdiction of such Court as the assets within Ontario, or in the absence of such certificate, until like security is given to the Judge of the Surrogate Court covering the assets in Ontario as in the case of granting original letters of administration. R.S.O. 1897, c. 59, s. 79. Security required.

[Proclamation bringing 51 V. c. 9, Ontario, into full force, published in Gazette, 27th May, 1893. For Imperial Order in Council applying "The Colonial Probates Act, 1892," to the Province of Ontario and for Rules under that Act, see Statutes of Ontario, 1895, page x.]

FEES AND COSTS.

As to fees payable to the Crown.

Rev. Stat. c. 25.

Stamps to be attached to order for grant.

As to fees to be taken by Judges, etc., to their own use.

On what property fees to be charged.

Commutation of fees of Judges.

Fees of Judges in York, Carleton, Wentworth and Middlesex.

In other counties.

75.—(1) The fees mentioned in Schedule A shall be payable in law stamps.

(2) The stamps in respect of a grant of probate or administration shall be affixed to the order for the grant, and not to the probate or letters of administration. R.S.O. 1897, c. 59, s. 80.

76. Subject to the provisions of sections 73 to 75 and sections 77 to 79, the Judge may demand and take to his own use the fees mentioned in Schedule B, which shall be collected by the Registrar on or before each proceeding and paid over to the Judge, and annual returns of such fees, up to the 31st day of the preceding December, shall be made to the Provincial Secretary by the Registrar on or before the 15th day of January in each year. R.S.O. 1897, c. 59, s. 81.

77. The fees payable shall be based on the amount of what, before the 1st day of July, 1886, was personal property. R.S.O. 1897, c. 59, s. 82.

78.—(1) The Lieutenant-Governor in Council may, with the consent of the Judge, commute the fees payable to him under this Act for a fixed annual sum not exceeding the average annual amount of the fees payable to the Judge during the next preceding five years; and, when a vacancy occurs, any order made under this subsection may be rescinded, or varied, but in no case shall an Order in Council name a sum exceeding the average annual amount of fees payable to the Judge during the next preceding five years. R.S.O. 1897, c. 59, s. 83 (1).

(2) In the cases of the Counties of York, Carleton, Wentworth and Middlesex, the Lieutenant-Governor in Council may direct payment to the Judges and to the Junior Judges of the County Courts of such Counties respectively of such part of the fees payable to the Judge as he may determine, and in every such case the excess, if any, shall be paid over to the Treasurer of the Province. 3 Edw. VII. c. 7, s. 12.

(3) Except in the case of the counties mentioned in the next preceding subsection the Lieutenant-Governor in Council may direct that where in any year the fees payable to the Judge exceed \$1,000 the Junior Judge or where he is the Surrogate Judge the Senior Judge shall receive out of the excess a sum not exceeding \$666. 8 Edw. VII. c. 33, s. 24.

(4) Except in the case of the Counties mentioned in sub-section 2, where the fees payable to the Judge in any year exceed \$1,000 the excess except so much thereof as is payable to the Junior Judge, or if he is the Surrogate Judge to the Senior Judge, under the next preceding sub-section shall be paid over to the Treasurer of the Province. Fees over \$1,000 to be paid to Provincial Treasurer. R.S.O. 1897, c. 59, s. 83.

(5) The powers conferred by subsections 2 and 3 may be exercised notwithstanding that the fees payable to the Judge have been commuted. 8 Edw. VII. c. 33, s. 24, *part*.

(6) Every Order in Council made under this section shall be laid before the Assembly forthwith if the Legislature is in session, and if it is not then in session, within the first seven days of the session next after the order is made. Order to be laid before Assembly. R.S.O. 1897, c. 59, s. 84.

79. In case of commutation, the fees payable to the Judge shall be paid in law stamps. Commutated fees, payable in stamps. R.S.O. 1897, c. 59, s. 83 (2).

80.—(1) The Board of County Judges may prescribe a tariff of the fees and costs to be taken by the Registrars and Officers of the Surrogate Courts, and to be allowed to solicitors and counsel practising therein for duties and services in respect of proceedings in such Courts and to witnesses therein, and no other fees or costs than those so authorized shall be taken by or allowed to such registrars, officers, solicitors, counsel and witnesses. Tariff to be made by Board of County Judges.

(2) The Board may also make rules for regulating the practice and procedure in the Surrogate Courts.

(3) The Board or three members thereof shall certify to the Judges authorized to make rules under section 122 or section 125 of *The Judicature Act*, any rule or tariff so framed, or any alteration thereof, and any Judges authorized to make rules under that Act may approve, disallow or amend the same. Rev. Stat. c. 51. R.S.O. 1897, c. 59, s. 86.

81. The bill of a solicitor for any fees, charges or disbursements in respect of business transacted in a Surrogate Court, whether contentious or otherwise, or any matter connected therewith, shall, as well between solicitor and client as between party and party, be subject to taxation in such Court. Taxation of costs. R.S.O. 1897, c. 59, s. 87.

REPEAL.

82. Chapter 59 of the Revised Statutes, 1897, except section 58, and all amendments to the said Chapter and sections 1 to 9 of Chapter 337 of the said Revised Statutes are repealed. Repeal.

SCHEDULE A.

FEES PAYABLE TO THE CROWN.

1

On proceedings in the offices of Registrars.

	\$	c.
On every application for probate, administration or guardianship (including notice thereof to Surrogate Clerk, but not postage)	0	50
On certificate of Surrogate Clerk upon such application (including transmission to Registrar, but not postage)	0	50
On every instrument or process with seal of Court	0	50
Entry and notification of caveat, not including postage	0	50
On every grant of probate or administration, as follows, viz.:		
Where the property devolving does not exceed \$1,000..	0	50
For every additional \$1,000 or fraction thereof	0	50
On every final judgment in contentious or disputed cases	1	00
On deposit of a will for safe custody	0	50

2

On proceedings in the office of the Surrogate Clerk.

The following fees shall be payable notwithstanding anything contained in section 73 of this Act, or in section 155 of *The Ontario Insurance Act*:—

	\$	c.
<i>Fees payable in Surrogate Clerk's office.</i> On every search for grant of probate, administration, guardianship, or other matter in Clerk's office (other than searches on application of Registrars)	0	50
On every certificate of search or extract	1	00
(If exceeding three folios, 10 cents for each additional folio.)		
On every certificate respecting other application or caveat, where the necessary search does not extend beyond three years	0	50
Where the necessary search extends beyond three years, 10 cents additional for every year beyond three years.		
On every certificate, where the whole estate does not exceed in value \$400; or where the estate consists of insurance money only, not exceeding \$400	0	30
On every other certificate issued by the Clerk	0	50
On every order made on application to a Judge of the High Court and transmission of same, exclusive of postage	0	80
On entry of every appeal	1	00
On every judgment on appeal and transmission, exclusive of postage	3	00
On entry of caveat	0	50
On every judgment or order on appeal	2	50

R.S.O. 1897, c. 59, Sched. A; 1 Edw. VII. c. 12, s. 8.

SCHEDULE B.

FEES PAYABLE TO JUDGE.

	\$	c.
On every grant of probate or administration:		
Where the property devolving does not exceed \$1,200..	2	00
Where the property devolving exceeds \$1,200 but does not exceed \$3,000	3	00
Where the property devolving exceeds \$3,000 but does not exceed \$4,000	4	00
And for every additional \$1,000, or fraction thereof, the additional sum of	1	00

On every appointment of a guardian	2 00
On every order or appointment	0 50
On every special attendance or attendance to grant probate or administration or upon an appointment when an audit is adjourned	1 00
On every audit where the total of the accounts to be audited does not exceed \$1,000	1 00
per hour, but not to exceed \$2.00 on any day.	
On every audit where such total exceeds \$1,000, but is under \$10,000	1 00
per hour, but not to exceed \$5.00 on any day.	
On every audit where such total is or exceeds \$10,000, but is under \$50,000	1 50
per hour, but not to exceed \$6.00 on any day.	
On every audit, where such total is or exceeds \$50,000	2 00
per hour, but not to exceed \$10.00 on any day.	

For every day's sitting in contentious or disputed cases, similar fees to those allowed in cases of audit.

R.S.O. 1897, c. 59, Sched. B; 3 Edw. VII. c. 7, s. 13.

No. 130.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting the Surrogate Courts.

First Reading	day of	1910
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Mr. Foy.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting the Surrogate Courts.

SHORT TITLE, s. 1.	REFERENCE OR REMOVAL OF CASES
INTERPRETATION, s. 2.	TO HIGH COURT, ss. 32, 33.
CONSTITUTION OF THE COURTS,	APPEALS TO THE COURT OF AP-
ss. 3-5.	PEAL, s. 34.
JUDGES, ss. 6-9.	PROCEDURE TO OBTAIN PROBATE,
SURROGATE CLERK AND REGIS-	ss. 35-51.
TRARS, ss. 10-18.	COPIES OF WILLS, ETC., s. 52.
JURISDICTION AND POWERS OF	ADMINISTRATION OF ESTATES, ss.
COURTS, ss. 19-27.	53-72.
TRIALS BY JURY, s. 28.	ESTATES OF SMALL VALUE, s. 73.
SITTINGS, s. 29.	ANCILLARY PROBATES, ETC., s. 74.
WITNESSES AND EVIDENCE, ss.	FEES AND COSTS, ss. 75-80.
30, 31.	REPEAL, s. 81.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as “*The Surrogate Courts Act*.” R.S.O. 1897, c. 59, s. 1.

INTERPRETATION.

2. In this Act:

Interpreta-
tion.

- (a) “Administration” shall include all letters of administration of the effects of deceased persons whether with or without the will annexed, and whether granted for general, special or limited purposes; “Adminis-
tration.”
- (b) “Common form business” shall mean the business of obtaining probate or administration where there is no contention as to the right thereto, including the passing of probate and administration through a Surrogate Court when the contest is terminated, and all business of a non-contentious nature to be taken in a Surrogate “Common
form busi-
ness.”

Court in matters of testacy and intestacy not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or administration;

- "County." (c) "County" shall include Provisional Judicial District;
- "County Court." (d) "County Court" shall include District Court;
- "Matters and causes testamentary." (e) "Matters and causes testamentary" shall include all matters and causes relating to the grant and revocation of letters probate of wills or letters of administration;
- "Will." (f) "Will" shall include a testament, and all other testamentary instruments of which probate may be granted. R.S.O. 1897, c. 59, s. 2.

SURROGATE COURTS.

A Surrogate Court to be in each County.

3. There shall be in and for every County a Court of Record to be styled "The Surrogate Court of the County (or united Counties or District) of———" (inserting the name of the County or United Counties or District). R.S.O. 1897, c. 59, s. 3.

Courts to have seals.

4. Every such Court shall be provided with a suitable seal to be approved of by the Lieutenant-Governor. R.S.O. 1897, c. 59, s. 4.

Sittings, where held.

5. The sittings of the Court shall be held in the county town and shall be presided over by the judge thereof. R.S.O. 1897, c. 59, s. 5.

JUDGES.



Judge to be appointed by Lieutenant-Governor-in-Council.

6.—(1) The Judge of the Surrogate Court shall be appointed by the Lieutenant-Governor in Council and shall hold office during good behaviour and residence in the County for which he is appointed, and shall be subject to be removed by the Lieutenant-Governor in Council for inability, incapacity or misbehaviour established to his satisfaction. *New.*

(2) Every appointment of a Surrogate Court Judge heretofore made by the Lieutenant-Governor in Council is hereby declared to be as valid as if this section had been enacted at the time of his appointment. *New.*

7. The Judge of a County Court appointed before the 7th day of April, 1896, or where there are more Judges than one the Senior Judge appointed before that day shall continue to be *ex-officio* Judge of the Surrogate Court for the County. R.S.O. 1897, c. 59, s. 6, *part*.

Certain Judges of County Courts to be *ex-officio* Judges of Surrogate Courts.

8.—(1) In case of the illness or absence  or at the request  of the Judge of the Surrogate Court of any County or District, any Judge who has authority to preside over the County or District Court of such County or District may act as Judge of the Surrogate Court.

Illness, absence or vacancy in office of Judge.

(2) In case of a vacancy in the office of Judge of the Surrogate Court, a Judge of the County or District Court of the County or the District may act as Judge of the Surrogate Court, or if there be no such Judge of the County or District Court, or none present in the County or District, or able to act, any Judge of any other County or District Court may so act upon the written request of the Attorney-General for Ontario.

(3) A Judge of the County or District Court, while so acting, shall have all the powers and privileges and may perform all the duties of the Judge of the Surrogate Court. See R.S.O. 1897, c. 59, s. 6; 61 V., c. 14, s. 1.

Acting Judge, when entitled to fees.

(4) Except in the case of a vacancy, where a Judge so acts he shall not be entitled to the fees unless with the consent of the Judge of the Surrogate Court. 61 V. c. 14, s. 2.

Resignation of County Judge to include Judgeship of Surrogate Court.

(5) Where a Judge of a County Court who is also Judge of the Surrogate Court vacates his County Court Judgeship, unless the Lieutenant-Governor in Council otherwise directs, he shall thereby vacate his Judgeship of the Surrogate Court. 3 Edw. VII. c. 7, s. 11.

9. Every Judge of a Surrogate Court, before entering upon the duties of his office, shall take and subscribe the following oath before some person appointed by the Lieutenant-Governor to administer the same, that is to say:

Oath of Judge.

"I, _____, do swear that I will truly and faithfully, according to the best of my skill and knowledge, execute the duties, powers and trusts of Judge of the Surrogate Court of the County (or United Counties or District), of
So help me God."

R.S.O. 1897, c. 59, s. 7.

SURROGATE CLERK AND REGISTRARS.

Surrogate
Clerk to be
appointed—
his duties.

10. There shall be an officer, to be called the Surrogate Clerk, who shall be deemed an officer of the High Court, and shall be appointed by the Lieutenant-Governor in Council. 7 Edw. VII. c. 59, s. 8.

Registrar.

11. There shall be a Registrar for every Court who shall be appointed by the Lieutenant-Governor in Council. *See* 7 Edw. VII. c. 23, s. 3.

Oath of
Registrar.

12. Every Registrar, before entering upon the duties of his office, shall take and subscribe the following oath:

"I, _____, do swear that I will diligently and faithfully execute the office of Registrar of the Surrogate Court of the _____, and that I will not knowingly permit or suffer any alteration, obliteration or destruction to be made or done, of any will or testamentary paper, or other document or paper committed to my charge. So help me God."

R.S.O. 1897, c. 59, s. 11.

Security to be
given by
Registrars.

13. Every Registrar, before entering upon the duties of his office, shall furnish such security as may be required by the Lieutenant-Governor in Council for the due performance of the duties of his office, and the provisions of *The Public Officers Act* relating to the giving of security shall apply to such security. R.S.O. 1897, c. 59, s. 12.

9 Edw. VII.,
c. 5.

Registrar's
office.

14.—(1) The Registrar shall keep his office in the Court House of the county, and a room therein shall be provided for that purpose, and, in the event of there being no available room therein, then at such place in the county town as the Judge directs.

Registrar of
Essex.

(2) The Registrar of the Surrogate Court of the County of Essex may keep an office in some convenient place in the City of Windsor, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval of the Lieutenant-Governor in Council. R.S.O. 1897, c. 59, s. 13.

Office to be a
depository for
the wills of
living persons.

15. The office of the Registrar shall be a depository for all wills of living persons given to him for safe keeping, and the Registrar shall receive and keep the same upon payment of such fees and under such regulations as may be prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 13 (1), *part*.

Registrars to
preserve tes-
tamentary in-
struments,
papers, etc.

16. The Registrar shall file and preserve all original wills of which probate or letters of administration with the will annexed are granted and all other papers used in any

matter in his Court, subject to such regulations as may be prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 14.

17. On the third day of every month, or oftener if required by the Surrogate Court Rules, every Registrar shall transmit by mail to the Surrogate Clerk a list, in such form and containing such particulars as may be prescribed by such Rules, of the grants of probate and administration made by his Court up to the last day of the preceding month, and also a copy, certified by him to be a correct copy, of every will to which the same relate, and he shall in like manner make a return of every revocation of grant of probate or administration. R.S.O. 1897, c. 59, s. 15.

Registrars to transmit to Surrogate Clerk list of probates, etc.

18. Neither the Surrogate Clerk nor a Registrar shall for fee or reward draw or advise upon any will, or upon any paper or document connected with the duties of his office, for which a fee is not expressly allowed to him by the tariff. R.S.O. 1897, c. 59, s. 16.

Surrogate Clerk and Registrars not to take fees for drawing or advising on certain documents.

[For returns by Registrars of Surrogate Courts, see Chap. 16, sec. 29.]

JURISDICTION AND POWERS OF THE SURROGATE COURTS.

19. Subject to the provisions of *The Judicature Act*, all jurisdiction and authority, voluntary and contentious, in relation to matters and causes testamentary, and in relation to the granting or revoking probate of wills and letters of administration of the property of deceased persons, and all matters arising out of or connected with the grant or revocation of grant of probate or administration, shall be exercised in the name of His Majesty, in the several Surrogate Courts. R.S.O. 1897, c. 59, s. 17.

Testamentary jurisdiction to be exercised by the Surrogate Courts.

20. Every Surrogate Court shall have full power, jurisdiction and authority:

Powers and jurisdiction of Surrogate Courts.

- (a) To issue process and hold cognizance of all matters relating to the granting probate of wills and letters of administration, and to grant probate of wills and letters of administration of the property of persons dying intestate, and to revoke the same; and
- (b) To hear and determine all questions, causes and suits in relation to such matters, and to all matters and causes testamentary. R.S.O. 1897, c. 59, s. 18.

The same as
in former
Court of Pro-
bate for
Upper Canada.

21.—(1) Subject to the provisions herein contained, every such Court shall also have the same powers and the grants and orders of such Court shall have the same effect throughout Ontario, as the former Court of Probate for Upper Canada and its grants and orders respectively had in relation to the personal estate of deceased persons and to causes testamentary within its jurisdiction; and all duties which by statute or otherwise were imposed on or exercised by such Court of Probate or the Judge thereof in respect of probates, administrations and matters and causes testamentary, and the appointment of guardians and otherwise, shall be performed by the Surrogate Courts and the Judges thereof, within their respective jurisdictions.

No action for
legacy or dis-
tribution of
residue.

(2) An action for a legacy or for the distribution of a residue shall not be entertained by any Surrogate Court. R.S.O. 1897, c. 59, s. 18.

Administra-
tion not to be
granted to be
non-resident.

22. Letters of administration shall not be granted to a person not resident in Ontario, but this shall not apply to resealing letters under section 74. 9 Edw. VII. c. 32, s. 2.

Probate or
letters ancil-
lary to per-
sons not resid-
ing in British
Dominions.

23. Letters probate shall not be granted to a person not resident in Ontario or elsewhere in the British Dominions, unless such person shall have given the like security as is required from an administrator in case of intestacy unless, in the opinion of the Judge, such security should, under special circumstances, be dispensed with or be reduced in amount. 9 Edw. VII. c. 32, s. 2.

To what par-
ticular Court
the grant of
probate or
administration
shall belong.

24.—(1) The granting of probate or letters of administration shall belong to the Surrogate Court of the county in which the testator or intestate had at the time of his death his fixed place of abode.

(2) If the testator or intestate had no fixed place of abode in, or resided out of, Ontario at the time of his death, the grant may be made by the Surrogate Court of any county in which the testator or intestate had property at the time of his death.

(3) In other cases the granting of probate or letters of administration shall belong to the Surrogate Court of any county. R.S.O. 1897, c. 59, s. 19.

Where Surro-
gate Judge is
entitled to
probate, appli-
cation to be
made to
Judge in
adjoining
county.

25.—(1) Where the person or one of the persons entitled to apply for probate of will or for letters of administration is Judge of the Court having jurisdiction in the matter, and he does not renounce, application by him for such probate or letters, and any subsequent application in the matter of the estate by him or by any other person may be made

to the Judge of the Surrogate Court for an adjoining county, who shall have the same authority as to such application, and generally in all matters connected with the estate, as if he were the Judge of the Surrogate Court having jurisdiction, and he shall be entitled to the same fees, to be paid in stamps if his fees have been commuted, as he would have been entitled to if the application had been made or proceedings had been taken in the Court of which he is Judge.

(2) All proceedings shall be carried on in the Surrogate Court having jurisdiction. R.S.O. 1897, c. 59, s. 20.

26. Letters probate and letters of administration granted by a Surrogate Court not having jurisdiction to grant the same shall nevertheless until revoked have the same force and effect as if they had been granted by a Surrogate Court having jurisdiction. *New.* Effect of probate or letters granted without jurisdiction.

27.—(1) Letters probate and letters of administration shall have effect over the property of the deceased in all parts of Ontario. R.S.O. 1897, c. 59, s. 21. Effect of probate and administration.

(2) This section shall be subject to the provisions of section 57 and to the provisions contained in the letters probate or letters of administration.

POWER TO TRY BY JURY.

28.—(1) The Court may cause any question of fact arising in any proceeding therein to be tried by a jury before the Judge of the Court; and such trial shall take place at some ensuing sittings of the County Court for the County and be conducted in the same manner as other trials by jury in such Court, and the parties shall be entitled to their right of challenge; and, for all purposes of or incidental to the trial of questions of fact by a jury, the Court and the Judge thereof shall have the same jurisdiction, power and authority in all respects as belong to the County Courts, and the Judges thereof, for like purposes. R.S.O. 1897, c. 59, s. 22. Courts may cause questions of fact to be tried by a jury.

(2) The question directed to be tried by a jury shall be reduced into writing in such form as the Court directs. R.S.O. 1897, c. 59, s. 23. Procedure on trial.

SITTINGS.

29.—(1) There shall be four sittings in each year for hearing and determining matters and causes in contentious cases and business of a contentious nature, which, except in Sittings prescribed.

the County of York, shall commence on the second Monday in January and the first Monday in April, July and October.

In the County of York. (2) The sittings in the County of York shall commence on the second Monday in January, June and October, and the first Monday in April in each year. R.S.O. 1897, c. 59, s. 24.

WITNESSES, EVIDENCE, PROCEDURE AND PRACTICE.

Evidence, practice and procedure.

30. The rules of evidence observed in and, except as herein otherwise provided and subject to the Surrogate Court Rules in contentious matters, the practice and procedure of the High Court shall apply to the Surrogate Courts, and, with respect to all matters within the jurisdiction of the Surrogate Courts, such Courts and the Judges and officers thereof respectively shall have and may exercise all the powers of the High Court and of the Judges and officers thereof. *New.*

Orders and proceedings in respect to the production of instruments purporting to be testamentary.

31.—(1) Whether any suit or other proceeding is or is not pending in the Court with respect to any probate or administration, every Surrogate Court may, on motion or otherwise in a summary way, order any person to produce and bring before the Registrar, or otherwise as the Court may direct, any paper or writing being or purporting to be testamentary which is shewn to be in the possession or under the control of such person.

Examination of persons touching such instruments.

(2) If it is not shewn that such paper or writing is in the possession or under the control of such person, but it appears that there are reasonable grounds for believing that he has knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined in open Court or before the Registrar or such person as the Court may direct, or upon interrogatories respecting the same, and to produce and bring in such paper or writing, and such person shall be subject to the like process in case of default in not attending or in not answering questions or interrogatories or not bringing in such paper or writing, as he would have been subject to if he had been a party to a suit in the Court and had made such default; and the costs of such motion or other proceedings shall be in the discretion of the Court. R.S.O. 1897, c. 59, s. 26.

REFERENCE OR REMOVAL TO THE HIGH COURT.

In cases of contention, the matter may, by con-

32. Where there is a contention as to the grant of probate or administration, and the parties agree, the contention shall be referred to and determined by the High Court

on a case to be stated, and the probate or administration shall not be granted until the contention is terminated and disposed of by judgment, or otherwise. R.S.O. 1897, c. 59, s. 33.

33.—(1) Where in any cause or proceeding any contention arises as to the grant of probate or administration, or any question is raised as to law or facts relating to matters and causes testamentary, the same may be removed into the High Court by order of a Judge of such Court, made on motion supported by affidavit, and on notice to the other parties concerned.

In certain cases of contention, matter may be removed into High Court.

(2) The Judge may impose such terms as to payment of or security for costs or otherwise as he may deem just.

Terms as to costs.

(3) No cause or proceeding shall be removed unless it is of such a nature and of such importance as to render it proper that the same should be disposed of by the High Court, nor unless the property of the deceased exceeds \$2,000 in value. R.S.O. 1897, c. 59, s. 34.

Certain cases not to be so removed.

(4) The final order or judgment of the High Court in any cause or proceeding so removed shall, for the guidance of the Surrogate Court, be transmitted by the Surrogate Clerk to the Registrar of the Surrogate Court from which the cause or proceeding was removed. R.S.O. 1897, c. 59, s. 35.

Transmission of final order to Surrogate Court.

APPEALS TO THE HIGH COURT.

34.—(1) Any person who deems himself aggrieved by an order, determination or judgment of a Surrogate Court, in any matter or cause, may appeal therefrom to a Divisional Court of the High Court.

Persons considering themselves aggrieved by any judgment, etc., may appeal to the High Court.

(2) No such appeal shall lie unless the value of the property to be affected by such order, determination or judgment exceeds \$200. R.S.O. 1897, c. 59, s. 36.

Appeals not to lie in certain cases.

(3) The practice and procedure upon and in relation to an appeal shall be the same as is provided by *The County Courts Act* as to appeals from the County Court. *New.*

(4) A motion for a new trial after a trial by jury under section 28 shall be deemed an appeal and shall be made to a Divisional Court. *New.*

PRACTICE.

Proofs to lead grant.

Proof, etc.,
requisite for
obtaining
grant of pro-
bate or ad-
ministration
where decess-
ed resided in
Ontario.

35. On every application for probate of a will or for letters of administration where the deceased was resident in Ontario at the time of his death, his place of abode at the time of his death shall be made to appear by affidavit of the person or one of the persons making the application; and thereupon and upon proof of the will, or in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1897, c. 59, s. 38.

When testa-
tor, etc., had
no fixed place
of abode in or
resided out of
Ontario, upon
what proof
probate or ad-
ministration
to be granted,
etc.

36. On every application for probate of a will or for letters of administration where the deceased had no fixed place of abode in or resided out of Ontario at the time of his death, the same shall be made to appear by affidavit of the person or one of the persons making the application, and that the deceased died leaving property within the county to the Surrogate Court of which the application is made, or leaving no property in Ontario, as the case may be, and that notice of the application has been published at least three times successively in the *Ontario Gazette*; and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1897, c. 59, s. 39.

Affidavit
grounding ap-
plication for
grant to be
conclusive for
exercise of
jurisdiction if
acted on.

Judge
may stay pro-
ceedings in
case of incor-
rect state-
ment.

37. The affidavit as to the place of abode and property of the deceased under the next preceding two sections, for the purpose of giving a particular Court jurisdiction, shall be conclusive for the purpose of authorizing the exercise of such jurisdiction; and no grant of probate or administration shall be liable to be recalled, revoked or otherwise impeached by reason that the deceased had no fixed place of abode within the particular county, or had not property therein at the time of his death; but in case it is made to appear to the Judge of a Surrogate Court before whom the application is pending, that the place of abode of the deceased, or the situation of his property, has not been correctly stated in the affidavit, the Judge may stay all further proceedings and make such order as to the costs of the proceedings before him as he may deem just. R.S.O. 1897, c. 59, s. 40.

Proof, etc.,
requisite for
obtaining
grant to party
not next of
kin to intes-
tate.

38. Where application is made for letters of administration by a person not entitled to the same as next of kin of the deceased, an order shall be made requiring the next of kin or others having or pretending interest in the property

of the deceased, resident in Ontario, to shew cause why the administration should not be granted to the person applying therefor; and if neither the next of kin nor any person of the kindred of the deceased resides in Ontario, a copy of the order shall be served or published in the manner prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 41.

39.—(1) If the next of kin, usually residing in Ontario and regularly entitled to administer, is absent from Ontario, the Court having jurisdiction may grant a temporary administration to the applicant, or to such other person as the Court thinks fit, for a limited time, or subject to be revoked upon the return of such next of kin to Ontario. R.S.O. 1897, c. 59, c. 42.

Temporary administration in certain cases.

(2) The administrator so appointed shall give such security as the Court directs, and shall have all the rights and powers of a general administrator, and shall be subject to the immediate control of the Court. R.S.O. 1897, c. 59, s. 43.

Security to be given.

Notice of Applications.

40. Notice of every application for the grant of probate or administration shall be transmitted by the Registrar, by registered post, to the Surrogate Clerk by the next post after the application, and the notice shall specify the name and description or addition, if any, of the deceased, the time of his death, and the place of his abode at his decease, as stated in the affidavits made in support of the application, and the name of the person by whom the application is made, and such other particulars as may be prescribed by the Surrogate Court Rules. R.S.O. 1897, c. 59, s. 44.

As to transmission of notice of applications for grants of probates, etc., to Surrogate Clerk by Registrars.

41. Unless upon special order of the Court, no probate or administration shall be granted until the Registrar has received a certificate, under the hand of the Surrogate Clerk, that no other application appears to have been made in respect of the property of the deceased, which certificate the Surrogate Clerk shall forward as soon as may be to the Registrar. R.S.O. 1897, c. 59, s. 45.

Proceeding to be stayed till certificate received from Surrogate Clerk.

42. All notices in respect of applications shall be filed and kept by the Surrogate Clerk. R.S.O. 1897, c. 59, s. 46.

Surrogate Clerk to file notices.

43. The Surrogate Clerk shall, with reference to every such notice, examine all notices of such applications received from the several Registrars, so far as appears to be necessary to ascertain whether or not application for probate or admini-

Duty of Surrogate Clerk with reference to notices.

stration in respect of the property of the deceased has been made in more than one Surrogate Court, and he shall communicate with the Registrars as occasion may require in relation to such applications. R.S.O. 1897, c. 59, s. 47.

Proceedings if application has been made to more than one Surrogate Court.

44.—(1) Where it appears by the certificate of the Surrogate Clerk that application for probate or administration has been made to two or more Surrogate Courts, the Judges of such Courts respectively shall stay proceedings therein, leaving the parties to apply to a Judge of the High Court for such direction in the matter as he may deem necessary. R.S.O. 1897, c. 59, s. 48.

Judgment as to what Court shall have jurisdiction.

(2) On application made to such Judge of the High Court he shall inquire into the matter in a summary way, and adjudge and determine what Surrogate Court has jurisdiction. R.S.O. 1897, c. 59, s. 49.

Order as to costs.

(3) The Judge of the High Court may order costs to be paid by any of the applicants, and the order shall be enforced by the High Court. R.S.O. 1897, c. 59, s. 50.

Judge's decision to be final.

(4) The determination of the Judge shall be final and conclusive, and the Surrogate Clerk shall without delay transmit a certified copy of the Judge's order to the Registrars of the Surrogate Courts wherein such applications were made. R.S.O. 1897, c. 59, s. 51.

Caveats.

Practice respecting caveats.

45. Caveats against the grant of probate or administration may be lodged with the Surrogate Clerk or with the Registrar of any Surrogate Court. R.S.O. 1897, c. 59, s. 52.

Notice of caveats to be transmitted to the proper Surrogate Courts.

46. Upon a caveat being lodged, the Registrar shall without delay send a copy thereof to the Surrogate Clerk to be entered among the caveats lodged with him and, upon notice of an application being received from the Registrar of a Surrogate Court under section 40, the Surrogate Clerk shall without delay forward to him notice of any caveat that has been so lodged touching such application, and the notice shall accompany or be embodied in the certificate mentioned in section 41. R.S.O. 1897, c. 59, s. 53.

Proof of Wills in Solemn Form.

Where a will affecting real estate is proved in

47. Where proceedings are taken for proving a will in solemn form, or for revoking the probate of a will on the ground of the invalidity thereof, or where in any other

contentious cause or matter the validity of a will is disputed, all persons having or pretending to have any interest in the property affected by the will, may, subject to the provisions of this Act and to the Surrogate Court Rules, be summoned to see the proceedings, and may be permitted to become parties, subject to such Rules and to the discretion of the Court. R.S.O. 1897, c. 59, s. 54.

solemn form, or is the subject of contentious proceedings, heirs, etc., may be cited.

EXECUTORS.

48. The Court having jurisdiction may summon any person named executor of any will to prove or refuse to prove such will, and to bring in inventories and to do every other thing necessary or expedient concerning the same. 21 Hen. 8, c. 5, s. 6; R.S.O. 1897, c. 337, s. 1.

Surrogate Judge may cite executor named in will to prove or renounce.

49. When an executor survives the testator, but dies without having taken probate, and when an executor is summoned to take probate, and does not appear, his right in respect of the executorship shall wholly cease, and the representation to the testator, and the administration of his property, shall and may, without any further renunciation, go, devolve, and be committed in like manner as if such person had not been appointed executor. Imp. Act 21 and 22 Vict. c. 95, s. 16. R.S.O. 1897, c. 337, s. 2.

An executor not acting or not appearing to a citation, to be treated as if he had renounced.

INFANT EXECUTORS.

50. Where an infant is sole executor, administration with the will annexed shall be granted to the guardian of such infant, or to such other person as the Court shall think fit, until such infant shall have attained the full age of twenty-one years, at which period, and not before, probate of the will may be granted to him. Imp. Act 38 Geo. 3, c. 87, s. 6; R.S.O. 1897, c. 337, s. 3.

Where an infant sole executor, administration to be granted to the guardian, etc.

51. The person to whom such administration is granted shall have the same powers as an administrator has by virtue of an administration granted to him *durante minore aetate* of the next of kin. Imp. Act. 38, Geo. 3, c. 87, s. 7; R.S.O. 1897, c. 337, s. 4.

Who shall have the same power as where administration is granted *durante minore aetate* of the next of kin.

COPIES OF WILLS.

52. An official copy of the whole or any part of a will or an official certificate of the grant of any letters of administration, may be obtained from the Registrar on payment of the prescribed fees. R.S.O. 1897, c. 59, s. 55.

Official copy of the whole or part of a will may be obtained.

ADMINISTRATION PENDENTE LITE.

Administra-
tion pendente
lite may be
granted.

Rights and
powers of the
administrator.

53. Pending an action touching the validity of the will of any deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the Surrogate Court having jurisdiction to grant administration in the case of intestacy may appoint an administrator of the property of the deceased person; and the administrator so appointed shall have all the rights and powers of a general administrator other than the right of distributing the residue of the property; and every such administrator shall be subject to the immediate control and direction of the Court; and the Court may direct that such administrator shall receive out of the property of the deceased such reasonable remuneration as the Court may deem proper. R.S.O. 1897, c. 59, s. 56.

ADMINISTRATORS.

To what per-
sons adminis-
tration shall
be granted.

54.—(1) Subject to the provisions of subsection 2, where a person dies intestate, or the executor named in his will refuses to prove the same, administration of the property of the deceased may be committed by the Surrogate Court having jurisdiction, to the husband, or to the wife, or to the next of kin, or to the wife and next of kin as in the discretion of the Court shall seem best; and where more persons than one claim the administration as next of kin who are equal in degree of kindred to the deceased, or where one only desires the administration as next of kin, where there are more persons than one of equal kindred the administration may be committed to such one or more of such next of kin as the Court may think fit. 31 Ed. 3, St. 1, c. 11 and 21 Hen. 8, c. 5, s. 2, and Common Law; R.S.O. 1897, c. 337, s. 5.

General power
as to appoint-
ment of ad-
ministrator
under special
circum-
stances.

(2) Where a person dies wholly intestate as to his property, or leaving a will affecting property, but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death of such person resident out of Ontario, and it appears to the Court to be necessary or convenient by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the property of the deceased, or of any part of such property, other than the person who if this subsection had not been enacted would have been entitled to the grant of administration, it shall not be obligatory upon the Court to grant administration to the person who if this subsection had not been enacted would have been entitled to a grant thereof, but the Court may appoint such person as the Court thinks

fit upon his giving such security as the Court directs, and every such administration may be limited as the Court thinks fit. R.S.O. 1897, c. 59, s. 59.

55. After a grant of administration no person shall have power to sue or prosecute any action, or otherwise act as executor of the deceased as to the property comprised in or affected by such grant or administration, until such administration has been recalled or revoked. R.S.O. 1897, c. 59, s. 60.

After grant of administration no person to act as executor.

56. An administrator appointed by the Surrogate Court to administer the estate of a deceased person shall be entitled to sue for, and recover, the debts and other property of the deceased, and shall be accountable for the due administration of the same in like manner as an executor. 31 Ed. 3, St. 1, c. 11; R.S.O. 1897, c. 337, s. 6.

Administrators to be entitled to recover property of deceased and to be accountable therefor as executors.

57. A person entitled to letters of administration to the property of a deceased person shall be entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. R.S.O. 1897, c. 59, s. 61.

Administration limited to personal estate.

INVENTORIES.

58.—(1) The person applying for a grant of probate, or administration, shall, before the same is granted, make or cause to be made and delivered to the Registrar a true and perfect inventory verified by the oath of the applicant of all the property which belonged to the deceased at the time of his death. 21 Hen. 8, c. 5, s. 4.

Inventory to be filed by person applying for probate, or administration.

(2) When after the grant of probate, or letters of administration, any property belonging to the deceased at the time of his death, and not included in such inventory, is discovered by the executor, or administrator, he shall, within six months thereafter, make and deliver to the Registrar an inventory, duly verified by oath, of such newly discovered property. *New.*

Further inventory of subsequently discovered property.

(3) Where the application or grant is limited to part only of the property of the deceased it shall be sufficient to set forth in such inventory the property intended to be affected by such application or grant. R.S.O. 1897, c. 337, s. 9.

Inventory in case of limited grant.

EXECUTOR RENOUNCING.

59. Where a person renounces probate of the will of which he is appointed an executor his rights in respect of

Right of executor renouncing probate, to cease absolutely.

the executorship shall wholly cease, and the representation to the testator and the administration of his property shall and may, without any further renunciation, go, devolve and be committed in like manner as if such person had not been appointed executor. R.S.O. 1897, c. 59, s. 65.

REMOVAL OF EXECUTOR OR ADMINISTRATOR.

Power to remove executors or administrators in certain cases.

60.—(1) The Surrogate Court by which the grant of probate or letters of administration was made shall, where the entire estate left by the deceased does not exceed \$1,000, have the like authority for the removal of an executor or administrator and to appoint some other proper person to act in his place as is possessed by the High Court, but nothing in this section shall affect the jurisdiction of a Surrogate Court to revoke a grant of probate or of letters of administration.

The place of executor so removed need not necessarily be filled up.

(2) Where the executor or administrator removed is not a sole executor or administrator the Court need not, unless it sees fit, appoint any person to act in the room of the person removed, and, if no such appointment is made, the rights and estate of the executor or administrator removed shall pass to the remaining executor or administrator as if the person so removed had died.

Executor of an executor.

(3) The executor of a person appointed an executor under this section shall not by virtue of such executorship be an executor of the estate of which his testator was appointed executor under this section, whether such person acted alone or was the last survivor of several executors. R.S.O. 1897, c. 59, s. 66.

Order for removal.

61. A certified copy of the order of removal shall be filed with the Surrogate Clerk and another copy with the Registrar of the Court by which probate or administration was granted, and such officers shall, at or upon the entry of the grant in the registers in their respective offices, make in red ink a short note giving the date and effect of the order, and shall also make a reference thereto in the index of the register at the place where such grant is indexed. R.S.O. 1897, c. 59, s. 67.

SECURITIES.

Persons receiving grants of administration to give bonds, etc.

62. Except where otherwise provided by law, every person to whom a grant of administration, including administration with the will annexed, is committed shall give a bond to the Judge of the Surrogate Court by which the grant is made, to enure for the benefit of the Judge of the

Court for the time being, or in case of the separation of counties, to enure for the benefit of any Judge of a Surrogate Court to be named by the High Court for that purpose, with a surety or sureties as may be required by the Judge, conditioned for the due collecting, getting in, administering and accounting for the property of the deceased, and the bond shall be in the form prescribed by the Surrogate Court Rules; and in cases not provided for by the Rules, the bond shall be in such form as the Judge may by special order direct. R.S.O. 1897, c. 59, s. 69.

63.—(1) The bond shall be in a penalty of double the amount under which the property of the deceased has been sworn, unless the Judge directs that the same shall be reduced, and the Judge may also direct that more bonds than one may be given, so as to limit the liability of any surety to such amount as the Judge deems proper. R.S.O. 1897, c. 59, s. 70.

Penalty in bonds, etc., and as to dividing liabilities of sureties.

(2) The amount of the security may from time to time be reduced by the Judge to double the amount of the property remaining in the hands of the administrator according to the last audit of his accounts by the Judge. *New.*

Amount of security may be reduced.

64. The Judge on application made in a summary way, and on being satisfied that the condition of the bond has been broken, may order the Registrar to assign the bond to some person to be named in the order, and such person shall thereupon be entitled to sue on the bond in his own name, as if the same had been originally given to him, and shall recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond. R.S.O. 1897, c. 59, s. 71.

Power of Surrogate Courts as to assignment of bonds.

65. The oaths to be taken by executors, administrators and guardians, and the bonds or other security to be given by administrators and guardians and probates, letters of administration and letters of guardianship shall require the executor, administrator or guardian to render a just and full account of his executorship, administration or guardianship only when thereunto lawfully required. 2. Edw. VII. c. 12, s. 11 (3).

Form of oath of executor, etc.

66. Where a surety for an administrator or guardian dies or becomes insolvent or where for any other reason the security furnished by an administrator or guardian becomes inadequate or insufficient the Judge may require other or additional security to be furnished and if the same is not furnished as directed by the Judge he may revoke the grant of administration or letters of guardianship. The order may be made by the Judge *sua sponte* or on the application of any person interested. *New.*

Judge may require new or additional security to be given in certain cases.

Judge may allow substitution of security.

67.—(1) Where a surety for an administrator or guardian desires to be discharged from his obligation, or where an administrator or guardian desires to substitute other security for that furnished by him the Judge may allow other security to be furnished in lieu of that of such surety or of the security so furnished on such terms as to the Judge may seem proper and may direct that on the substituted security being furnished and if the Judge so directs, the accounts of the administrator or guardian being passed, the surety or sureties be discharged.

(2) The application may be made *ex parte* or on such notice as the Judge directs. *New.*

On final accounting security may be cancelled.

68. Where an administrator has passed his final account and has paid into Court or distributed the whole of the property of the deceased which has come to his hands the Judge may direct the bond or other security furnished by the administrator to be delivered up to be cancelled. *New.*

[*As to bonds of guarantee companies see 9 Edw. VII. c. 67.*]

CONTESTATION OF CLAIMS AGAINST ESTATE.

Notice of contestation of claim against estate.

69.—(1) Where a claim or demand is made against the estate of a deceased person which, in the opinion of his personal representative, is unjust, in whole or in part, such personal representative may, at any time before payment, serve the claimant with a notice in writing that he contests the same in whole or in part, and, if in part, stating what part and also referring to this section.

Application to Judge for order allowing claim.

(2) The claimant may thereupon apply to the Judge of the Surrogate Court out of which the probate or letters of administration to the estate issued for an order allowing his claim and determining the amount thereof, and if he does not make such application within thirty days after receiving the notice, or within such further time as the Judge may allow, he shall be deemed to have abandoned his claim, and the same, or so much thereof as is contested, shall be forever barred.

Notice of application to be given to personal representative and others.

(3) Notice of the application shall be given to the personal representative, to such of the persons beneficially interested in the estate as the Judge may direct, and, if infants are interested therein, to the Official Guardian, and they or any of them and any other person beneficially interested in the estate shall have the right to be heard and to take part in the proceedings, and, where an appeal lies, to appeal from any order that may be made.

(4) The Judge shall have the same power and authority as if the claim of the creditor were a claim made under a reference to a Master, Local Master or Official Referee in an administration action or under an administration order, and his order, if the amount of the claim or the part of it which is contested exceeds \$200, shall be subject to appeal as provided by section 34, and the order upon being filed with the County Court of the County shall, irrespective of the amount, become and may be enforced in like manner as a judgment of that Court.

Judge may deal with claim as on a reference to a Master or Referee.

(5) Where the claim or the part of it which is contested amounts to \$500 or more, instead of proceeding as provided by this section, the Judge shall, on the application of either party, or of any of the parties mentioned in subsection 3, direct the creditor to bring an action in the High Court for the recovery of his claim on such terms and conditions as the Judge may deem just.

Where claim is \$500 or more leave may be granted to bring an action.

(6) The fees payable to the Judge and to the Registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested. 9 Edw. VII., c. 32, s. 1.

Fees of Judge and Registrar.

ACCOUNTS OF EXECUTOR, ADMINISTRATOR OR GUARDIAN.

70. An executor who is also a trustee under the will may be required to account for his trusteeship in the same manner as he may be required to account in respect of his executorship. *New.*

Accounting by executor trustee.

71.—(1) Where an executor, administrator, trustee under a will of which he is is an executor or a guardian, has filed in the proper Surrogate Court an account of his dealings with the estate and the Judge has approved thereof, in whole or in part, if he is subsequently required to pass his accounts in the High Court, such approval, except so far as mistake or fraud is shown, shall be binding upon any person who was notified of the proceedings taken before the Surrogate Judge, or who was present or represented thereat, and upon every one claiming under any such person. R.S.O. 1897, c. 59, s. 72; 2 Edw. VII. c. 12, s. 11 (1).

Approval of accounts by Surrogate Judge to be binding in High Court.

(2) A guardian appointed by the Surrogate Court may pass the accounts of his dealings with the estate before the Judge of the Court by which letters of guardianship were issued. 2 Edw. VII. c. 12, s. 11 (2).

Passing accounts by guardians.

(3) The Judge, on passing the accounts of an executor, administrator or such a trustee, shall have jurisdiction to enter into and make full enquiry and accounting of and

Powers of judge on passing accounts.

concerning the whole property which the deceased was possessed of or entitled to, and the administration and disbursement thereof, in as full and ample a manner as may be done in the Master's Office under an administration order and, for such purpose, may take evidence and decide all disputed matters arising in such accounting subject to an appeal under section 34.

Notice to persons interested.

(4) The persons interested in the taking of such accounts or the making of such enquiries shall, if resident within Ontario, be entitled to not less than seven days' notice thereof, and, if resident out of Ontario, shall be entitled to such notice as the Judge shall direct. 5 Edw. VII. c. 14, s. 1.

Where an infant or lunatic is interested.

(5) Where an infant or a lunatic is interested the Official Guardian shall be entitled to the like notice and to attend and to represent the infant or lunatic. *New.*

Executors or administrators not compellable to account (except by inventory) but at the instance of persons interested.

72.—(1) Neither an executor nor an administrator shall be required by any Court to render an account of the property of the deceased, otherwise than by an inventory thereof, unless at the instance or on behalf of some person interested in such property or of a creditor of the deceased, nor shall such executor or administrator be otherwise compellable to account before any Judge.

(2) This section shall apply notwithstanding any provision to the contrary of any bond or security heretofore given by the executor or administrator. 1. Jac. 2, c. 17, s. 6; R.S.O. 1897, c. 337, s. 7.

ESTATES OF SMALL VALUE.

When estate not over \$400 Registrar to prepare papers.

73.—(1) Where the whole property of the deceased does not exceed in value \$400 the Registrar, upon the application of any person entitled to probate or administration, shall prepare the necessary papers to lead the grant, and in the case of administration the administration bond, and administer all necessary oaths and the only fees payable in respect thereof and of the grant of probate or administration shall be those mentioned in subsection 3. R.S.O. 1897, c. 57, s. 74.

Judge to be satisfied that the value of the estate is less than \$400.

(2) If the Judge has reason to believe that the whole property of which the deceased died possessed exceeds in value \$400, he shall refuse to proceed with the application until he is satisfied as to the real value thereof. R.S.O. 1897, c. 59, s. 75.

(3) Such fees as the Lieutenant-Governor in Council may prescribe, shall be payable to the Judge and Registrar, on proceedings under this section, but the total amount for all proceedings and services to be charged to an applicant shall not exceed \$2. R.S.O. 1897, c. 59, s. 76. Scale of fees.

(4) Where the whole property of the deceased exceeds in value \$400, but does not exceed \$1,000, the fees payable to the Registrar and to the Judge on proceedings under this Act, in non-contentious cases, shall be one-half of the fees payable according to the tariffs in the case of an estate not exceeding in value \$1,000. R.S.O. 1897, c. 59, s. 77. Fees of Registrar and Judge when estate under \$1,000.

ANCILLARY PROBATES AND LETTERS OF ADMINISTRATION.

74.—(1) Where probate or letters of administration, or other legal document purporting to be of the same nature, granted by a Court of competent jurisdiction in the United Kingdom, or in any Province or territory of the Dominion, or in any other British possession, is produced to, and a copy thereof deposited with the Registrar of any Surrogate Court, and the prescribed fees are paid as on a grant of probate or administration, the probate or letters of administration, or other document shall, under the direction of the Judge, be sealed with the seal of the Surrogate Court, and shall thereupon be of the like force and effect in Ontario, as if the same had been originally granted by such Surrogate Court, and shall, so far as regards Ontario, be subject to any order made by such Court, or on appeal therefrom, as if the probate or letters of administration had been granted thereby. R.S.O. 1897, c. 59, s. 78. Manner of giving effect to grants of probate, etc., of English or Colonial Courts.

(2) The letters of administration shall not be sealed with the seal of the said Surrogate Court until a certificate has been filed under the hand of the Registrar of the Court which issued the letters, that security has been given in such Court in a sum of sufficient amount to cover as well the assets within the jurisdiction of such Court as the assets within Ontario, or in the absence of such certificate, until like security is given to the Judge of the Surrogate Court covering the assets in Ontario as in the case of granting original letters of administration. R.S.O. 1897, c. 59, s. 79. Security required.





[Proclamation bringing 51 V. c. 9, Ontario, into full force, published in Gazette, 27th May, 1893. For Imperial Order in Council applying "The Colonial Probates Act, 1892," to the Province of Ontario and for Rules under that Act, see Statutes of Ontario, 1895, page x.]



FEES AND COSTS.

As to fees payable to the Crown.
Rev. Stat. c. 25.

75.—(1) The fees mentioned in Schedule A shall be payable in law stamps.

Stamps to be attached to order for grant.

(2) The stamps in respect of a grant of probate or administration  or guardianship  shall be affixed to the order for the grant, and not to the probate or letters of administration  or guardianship.  R.S.O. 1897, c. 59, s. 80.

 (3) In case of commutation of the Judges' fees, the fees heretofore payable to the Judge shall be paid in law stamps, and such stamps shall, in the case of passing accounts, be affixed to the copy of the order filed with the Surrogate Registrar. 

As to fees to be taken by Judges, etc., to their own use.

76. Subject to the provisions of sections 73 to 75 and sections 77 to 79, the Judge may demand and take to his own use the fees mentioned in Schedule B, which shall be collected by the Registrar on or before each proceeding and paid over to the Judge, and annual returns of such fees, up to the 31st day of the preceding December, shall be made to the Provincial Secretary by the Registrar on or before the 15th day of January in each year. R.S.O. 1897, c. 59, s. 81.

On what property fees to be charged.

77. The fees payable shall be based on the amount of what, before the 1st day of July, 1886, was personal property. R.S.O. 1897, c. 59, s. 82.

Commutation of fees of Judges.

78.—(1) The Lieutenant-Governor in Council may, with the consent of the Judge, commute the fees payable to him under this Act for a fixed annual sum not exceeding the average annual amount of the fees payable to the Judge during the next preceding five years; and, when a vacancy occurs, any order made under this subsection may be rescinded, or varied, but in no case shall an Order in Council name a sum exceeding the average annual amount of fees payable to the Judge during the next preceding five years. R.S.O. 1897, c. 59, s. 83 (1).

Fees of Judges in York, Carleton, Wentworth and Middlesex.

(2) In the cases of the Counties of York, Carleton, Wentworth and Middlesex, the Lieutenant-Governor in Council may direct payment to the Judges and to the Junior Judges of the County Courts of such Counties respectively of such part of the fees payable to the Judge as he may determine, and in every such case the excess, if any, shall be paid over to the Treasurer of the Province. 3 Edw. VII. c. 7, s. 12.

(3) Except in the case of the counties mentioned in the next preceding subsection the Lieutenant-Governor in Council may direct that where in any year the fees payable to the Judge exceed \$1,000 the Junior Judge or where he is the Surrogate Judge the Senior Judge shall receive out of the excess a sum not exceeding \$666. 8 Edw. VII. c. 33, s. 24. In other counties.

(4) Except in the case of the Counties mentioned in subsection 2, where the fees payable to the Judge in any year exceed \$1,000 the excess except so much thereof as is payable to the Junior Judge, or if he is the Surrogate Judge to the Senior Judge, under the next preceding subsection shall be paid over to the Treasurer of the Province. R.S.O. 1897, c. 59, s. 83. Fees over \$1,000 to be paid to Provincial Treasurer.

(5) The powers conferred by subsections 2 and 3 may be exercised notwithstanding that the fees payable to the Judge have been commuted. 8 Edw. VII. c. 33, s. 24, *part*.

(6) Every Order in Council made under this section shall be laid before the Assembly forthwith if the Legislature is in session, and if it is not then in session, within the first seven days of the session next after the order is made. R.S.O. 1897, c. 59, s. 84. Order to be laid before Assembly.

79.—(1) The Board of County Judges may prescribe a tariff of the fees and costs to be taken by the Registrars and Officers of the Surrogate Courts, and to be allowed to solicitors and counsel practising therein for duties and services in respect of proceedings in such Courts and to witnesses therein, and no other fees or costs than those so authorized shall be taken by or allowed to such registrars, officers, solicitors, counsel and witnesses. Tariff to be made by Board of County Judges.

(2) The Board may also make rules for regulating the practice and procedure in the Surrogate Courts.

(3) The Board or three members thereof shall certify to the Judges authorized to make rules under section 122 or section 125 of *The Judicature Act*, any rule or tariff so framed, or any alteration thereof, and any Judges authorized to make rules under that Act may approve, disallow or amend the same. R.S.O. 1897, c. 59, s. 86. Rev. Stat. c. 51.

80. The bill of a solicitor for any fees, charges or disbursements in respect of business transacted in a Surrogate Court, whether contentious or otherwise, or any matter connected therewith, shall, as well between solicitor and client as between party and party, be subject to taxation in such Court. R.S.O. 1897, c. 59, s. 87. Taxation of costs.

REPEAL.

Repeal.

81. Chapter 59 of the Revised Statutes, 1897, except section 58, and all amendments to the said Chapter and sections 1 to 9 of Chapter 337 of the said Revised Statutes are repealed.

SCHEDULE A.

FEES PAYABLE TO THE CROWN.

1

On proceedings in the offices of Registrars.

	\$	c.
On every application for probate, administration or guardianship (including notice thereof to Surrogate Clerk, but not postage)	0	50
On certificate of Surrogate Clerk upon such application (including transmission to Registrar, but not postage)	0	50
On every instrument or process with seal of Court	0	50
Entry and notification of caveat, not including postage	0	50
On every grant of probate or administration, as follows, viz.: Where the property devolving does not exceed \$1,000..	0	50
For every additional \$1,000 or fraction thereof	0	50
On every final judgment in contentious or disputed cases	1	00
On deposit of a will for safe custody	0	50

2

On proceedings in the office of the Surrogate Clerk.

Fees payable
in Surrogate
Clerk's office.

The following fees shall be payable notwithstanding anything contained in section 73 of this Act, or in section 155 of *The Ontario Insurance Act*:—

	\$	c.
On every search for grant of probate, administration, guardianship, or other matter in Clerk's office (other than searches on application of Registrars)	0	50
On every certificate of search or extract	1	00
(If exceeding three folios, 10 cents for each additional folio.)		
On every certificate respecting other application or caveat, where the necessary search does not extend beyond three years	0	50
Where the necessary search extends beyond three years, 10 cents additional for every year beyond three years.		
On every certificate, where the whole estate does not exceed in value \$400; or where the estate consists of insurance money only, not exceeding \$400	0	30
On every other certificate issued by the Clerk	0	50
On every order made on application to a Judge of the High Court and transmission of same, exclusive of postage	0	80
On entry of every appeal	1	00
On every judgment on appeal and transmission, exclusive of postage	3	00
On entry of caveat	0	50
On every judgment or order on appeal	2	50

R.S.O. 1897, c. 59, Sched. A; 1 Edw. VII. c. 12, s. 8.

SCHEDULE B.

FEES PAYABLE TO JUDGE.

	\$	c.
On every grant of probate or administration:		
Where the property devolving does not exceed \$1,200..	2	00
Where the property devolving exceeds \$1,200 but does not exceed \$3,000	3	00
Where the property devolving exceeds \$3,000 but does not exceed \$4,000	4	00
And for every additional \$1,000, or fraction thereof, the additional sum of	1	00
On every appointment of a guardian	2	00
On every order or appointment	0	50
On every special attendance or attendance to grant probate or administration or upon an appointment when an audit is adjourned	1	00
On every audit where the total of the accounts to be audited does not exceed \$1,000	1	00
per hour, but not to exceed \$2.00 on any day.		
On every audit where such total exceeds \$1,000, but is under \$10,000	1	00
per hour, but not to exceed \$5.00 on any day.		
On every audit where such total is or exceeds \$10,000, but is under \$50,000	1	50
per hour, but not to exceed \$6.00 on any day.		
On every audit, where such total is or exceeds \$50,000	2	00
per hour, but not to exceed \$10.00 on any day.		

For every day's sitting in contentious or disputed cases, similar fees to those allowed in cases of audit.

R.S.O. 1897, c. 59, Sched. B; 3 Edw. VII. c. 7, s. 13.

No. 130.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting the Surrogate Courts.

First Reading 25th day of January, 1910
Second Reading 26th day of January, 1910

*(Reprinted as amended by Committee of
the Whole House.)*

Mr. FOY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act respecting Vendors and Purchasers and to
simplify Titles.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Vendors and Purchasers Act*." R.S.O. 1897, c. 134, s. 1. Short title.

2. In the completion of a contract of sale of land the rights and obligations of the vendor and the purchaser shall (subject to any stipulation in such contract to the contrary), be regulated by the following rules:—

- (a) Recitals, statements and descriptions of facts, matters and parties contained in statutes, deeds, instruments or statutory declarations twenty years old at the date of the contract, unless and except in so far as they are proved to be inaccurate, shall be sufficient evidence of the truth of such facts, matters and descriptions. Recitals, etc., 20 years old, of facts, etc., prima facie evidence.
- (b) A registered memorial of a discharged mortgage shall be sufficient evidence of the mortgage without the production of the mortgage, unless and except in so far as such memorial is proved to be inaccurate; and the vendor shall not be bound to produce the mortgage unless it is in his possession or power; Memorials of discharged mortgages.
- (c) A registered memorial twenty years old of any other instrument, if the memorial purports to be executed by the grantor, or in other cases if possession has been consistent with the registered title, shall be sufficient evidence without the production of the instrument to which the memorial relates, unless and except in so far as such memorial is proved to be inaccurate; and the vendor shall not be bound to produce the Memorials 20 years old, when, and of what, evidence.

original instrument unless it is in his possession or power; and the memorial shall be presumed to contain all the material contents of the instrument to which it relates;

Inability to furnish covenant to produce and furnish documents of title.

- (d) The inability of the vendor to furnish the purchaser with a legal covenant to produce and furnish copies of documents of title, shall not be an objection to the title if the purchaser will, on the completion of the contract, have an equitable right to the production of such documents. R.S.O. 1897, c. 134, s. 2.

Evidence in actions.

3. In an action it shall not be necessary to produce any evidence which, by section 2, is dispensed with as between vendor and purchaser; and the evidence therein declared to be sufficient as between vendor and purchaser shall *prima facie* be sufficient for the purposes of such action. R.S.O. 1897, c. 134, s. 3.

Summary applications to High Court in respect to requisitions, objections or compensation, etc.

4. A vendor or purchaser of real or leasehold estate or his representative may at any time and from time to time apply in a summary way to the High Court, or a Judge thereof, in respect of any requisition or objection, or any claim for compensation, or any other question arising out of or connected with the contract except a question affecting the existence or validity of the contract; and the Court or Judge may make such order upon the application as appears just, and may refer any question to a Master or other officer for enquiry and report. R.S.O. 1897, c. 134, s. 4.

Repeal.

5. Chapter 134 of the Revised Statutes of Ontario, 1897, and all amendments thereto are repealed.

No. 131.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Vendors and Purchasers
and to simplify Titles.

First Reading	day of	1910.
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act respecting Estreats.

SHORT TITLE, s. 1.	SALE OF LAND FOR PAYMENT OF
FINES AT HIGH COURT AND SESSIONS:	FINES, s. 9.
Entry of fines on roll, s. 2.	CONDITION OF RELEASE OF PARTY
Writ to Sheriff to levy, s. 3.	IN CUSTODY, s. 10.
Levy by Sheriff, s. 4.	DISCHARGE OF FORFEITED RECOGNIZANCES BY COURT, s. 11.
ESTREAT OF RECOGNIZANCES TO COUNTY COURT JUDGES, CRIMINAL COURT AND MAGISTRATES, ss. 5, 6, 7.	RETURNS BY SHERIFF AND CLERK OF PEACE, ss. 12, 13.
FORBEARANCE OF ESTREAT OR OF LEVY, s. 8.	PAYMENT TO PROVINCIAL TREASURER, s. 14.
	RULES OF COURT, s. 15.
	REPEAL, s. 16.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as “*The Estreats Act.*”

Short title.

2.—(1) Unless otherwise provided, all fines, issues, amerciaments and forfeited recognizances, the disposal of which is within the power of the Province, set, imposed, lost or forfeited, by or before the High Court or a Court of General Sessions of the Peace, shall, within twenty-one days from the adjournment of such Court, be entered and extracted on a roll, by the Deputy Clerk of the Crown, or Clerk of Assize, or Clerk of the Peace, as the case may be, or by some other person under the direction of a Judge, which roll shall be made in duplicate, and signed by the Clerk or by the Judge. R.S.O. 1897, c. 106, s. 1.

All fines, etc., shall within 21 days from adjournment of Court be entered on a roll.

(2) The Clerk or other person by whom the rolls are prepared shall, at the foot thereof, make affidavit in the following form:—

Deputy Clerk of Crown, etc., to make affidavit.

“I, A. B. (*describing his office*), make oath* that this roll is truly and carefully made up and examined, and that all fines, issues, amerciaments, and forfeited recognizances, which were set, imposed, lost or forfeited, at or by the Court therein mentioned, and which in right and due course of law ought to be levied and paid, are, to the best of my knowledge and understanding, inserted in the said roll; and that in the said roll are also contained and

Form.

expressed all such fines as have been paid to or received by me, either in Court or otherwise, without any wilful discharge, omission, misnomer, or defect whatever." A. B.
Sworn, etc.

R.S.O. 1897, c. 106, s. 12.

One copy of roll to be sent to the Central Office of the High Court, Toronto, or Clerk of the Peace, and the other, with an execution, to the Sheriff of the County.

3.—(1) Subject to the provisions of section 8 as soon as the rolls are prepared one shall in the High Court be transmitted by the Clerk or by the Judge to the Central Office of the High Court at Toronto, and in the General Sessions shall remain deposited in the office of the Clerk of the Peace, and in both cases the other with a writ of execution and *capias*, Form A, shall be transmitted to the Sheriff of the county or district in and for which such Court was held.

(2) Where the writ is intended to be executed in any other county or district a certified copy of the roll, with a concurrent writ of execution and *capias*, Form A, shall be transmitted to the Sheriff of such county or district.

(3) A writ, if unexecuted, shall remain in force for three years and no longer, unless renewed in the manner provided in the case of other writs of execution. R.S.O. 1897, c. 106, s. 2; 63 V. c. 17, s. 15 (1).

When new writ may issue.

(4) Where a recognizance is estreated, and has not been discharged or satisfied, the Court or a Judge may order the issue of a new or alias writ of execution and *capias*, notwithstanding that more than three years may have elapsed since the issue of the original writ. 63 V. c. 17, s. 15 (2).

Mode of proceeding to levy fine, etc.

4. The Sheriff shall proceed to the immediate levying and recovering of such fines, issues, amerciaments and forfeited recognizances, on the goods and chattels, lands and tenements of the persons named in the roll, or for taking into custody the bodies of such persons in case sufficient goods and chattels, lands or tenements cannot be found whereof the sums required can be made; and every person so taken shall be lodged in the Common Gaol of the county or district until satisfaction is made or until the Court, upon cause shewn by the party as hereinafter mentioned, makes an order in the case, and until the order has been fully complied with. R.S.O. 1897, c. 106, s. 3.

Estreat of recognizances to County Court Judges, Criminal Court and Magistrates.

5.—(1) Where a person bound by a recognizance for his appearance (or for whose appearance any other person has become so bound) does not appear at the time and place required or during the time the Judge of the County or District Judges Criminal Court or Police Magistrate or Justice of the Peace has appointed according to the terms of the recognizance the Judge or Police Magistrate or Justice shall within forty-eight hours after such failure to

appear cause a record of the recognizance to be drawn up and shall sign the same and return it to the Clerk of the Peace for the County or District with a certificate on the back thereof signed by the Judge, Police Magistrate or Justice stating that the person charged has not complied with the obligation contained in the recognizance.

(2) The Clerk of the Peace shall make a like record of estreat of every such recognizance as in the case of other recognizances forfeited at the Court of General Sessions of the Peace.

(3) The other provisions of this Act shall apply to every such recognizance. *New.*

6. Where a person bound by recognizance for his appearance, (or for whose appearance any other person has become so bound) to prosecute or give evidence in the case of an offence for the commission of which a fine or penalty is imposed which the Province is entitled to receive makes default, the officer of the Court by whom the estreats are made out shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person or his surety was so bound, together with the residence, trade, profession, or calling of every such person and surety, and shall in the list distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether by reason of his non-appearance the ends of justice have been defeated or delayed. R.S.O. 1897, c. 106, s. 7.

7. Every officer before a recognizance is estreated shall lay the list before a Judge of the Court, who shall examine the list and make such order touching the estreating or putting in process the recognizance as appears just; and no officer of the Court shall estreat or put in process a recognizance without the written order of the Judge before whom the list has been laid. R.S.O. 1897, c. 106, s. 8.

8.—(1) Except in the cases of persons bound by recognizance for their appearance (or for whose appearance any other person has become so bound) to prosecute or give evidence, in every case of default whereby a recognizance has become forfeited, if the cause of absence is made known to the Court, the Court, on consideration of the cause, and considering also whether by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated; and with respect to all recognizances estreated and all fines imposed

Estreat of
recognizance,
etc.

Recogniz-
ances, etc.,
not to be
estreated
without
Judge's order.

Court may
forbear
estreating
recognizances
under certain
circumstances.

by any Court for the non-attendance of a juror or constable, or of a public officer bound to attend at the Court, if it appears to the satisfaction of the Judge who presided thereat, that the absence of the person for whose appearance a recognizance was entered into, or that the absence of a person fined for non-attendance was owing to circumstances which rendered his absence justifiable, the Judge may make an order directing that the sum forfeited upon the estreated recognizance or the fine imposed shall not be levied. R.S.O. 1897, c. 106, s. 9.

Presiding Judge may direct Sheriff to forbear levying fines, etc., under certain circumstances.

(2) The clerk before sending to the sheriff the roll, with the writ of execution and *capias*, shall submit the same to the Judge for his revision; and the Judge may make a minute on the roll and writ of any forfeited recognizances and fines which he thinks fit to direct not to be levied; and the sheriff shall observe the direction in the minute, and shall accordingly forbear to levy the forfeited recognizance or fine. R.S.O. 1897, c. 106, s. 10.

Mode of proceeding where lands are seized for payment of fines, etc.

9. Where the sheriff takes lands or tenements in execution his duties and the practice and procedure as to the sale shall be the same as in other cases of execution against lands. R.S.O. 1897, c. 106, s. 11.

Conditions upon which a party in custody of the Sheriff may be released.

10. If a person on whose goods and chattels a sheriff is authorized to levy a forfeited recognizance gives security to the sheriff for his appearance in the Court into which the writ is returnable within thirty days after the giving of the security, or so soon thereafter as the Court shall sit, then and there to abide the decision of the Court, and also to pay the forfeited recognizance or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as may be adjudged and ordered by the Court, such person shall be discharged out of custody; and if he does not appear in pursuance of his undertaking, the Court may forthwith issue a writ of execution and *capias* against the surety or sureties of the person so bound. R.S.O. 1897, c. 106, s. 13.

Court under certain circumstances may discharge forfeited recognizances, etc.

11. The Court into which a writ of execution and *capias* is returnable may inquire into the circumstances of the case, and may order the discharge of the whole of the forfeited recognizance, or sum paid or to be paid in lieu of satisfaction thereof, and may make such order thereon as to the Court appears just; and the order shall be a discharge to the sheriff or to the party, according to the circumstances of the case. R.S.O. 1897, c. 106, s. 14.

12. The sheriff to whom a writ is directed shall with his return state on the back of the roll attached to the writ, what has been done in the execution thereof; and the return shall be filed in the proper office of the Court into which it is made. R.S.O. 1897, c. 106, s. 15.

Manner of
return by
Sheriff, etc.

13. A copy of the roll and return, certified by the Clerk of the Peace, or by one of the Registrars of the High Court, shall be forthwith transmitted to the Treasurer of Ontario, and to the Inspector of Legal Offices, with a minute thereon of any of the sums therein mentioned which have been remitted by order of the Court, in whole or in part, or directed to be forborne under the authority of this Act. R.S.O. 1897, c. 106, s. 16. .

Copy of roll
and return to
be sent to
Provincial
Treasurer.

14. The sheriff shall, without delay, pay over all moneys by him collected to the Treasurer of Ontario or other officer or person entitled to receive the same. R.S.O. 1897, c. 106, s. 17.

Sheriff to pay
to Provincial
Treasurer or
person
entitled.

15. The Judges of the High Court authorized by section 124 of the *Judicature Act* to make rules for regulating the practice of the High Court may make rules regulating the practice and procedure for the estreating of recognizances in the High Court or in the Court of General Sessions of the Peace.

Rules to be
made by
Judges of
High Court.
Rev. Stat. c.
51.

16. Chapter 106 of the Revised Statutes, 1897, and all amendments thereto are repealed.

Repeal.

FORM A.

WRIT OF EXECUTION AND CAPIAS.

Section 3 (1).

EDWARD THE SEVENTH, by the Grace of God, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King; Emperor of India, Defender of the Faith, etc.

To the Sheriff of _____, Greeting:

You are hereby commanded to levy of the goods and chattels, lands and tenements of each of the persons mentioned in the roll or extract to this Writ annexed, all and singular the debts and sums of money upon them severally imposed and charged as therein is specified; and if any of the said several debts cannot be levied, by reason that no goods or chattels, lands or tenements can be found belonging to the said persons respectively, then, and in all such cases, that you take the bodies of such persons and keep them safely in the Gaol of your County (or District), there to abide the judgment of Our High Court, (or Court of General Sessions of the Peace, *as the case may be*), upon any matter to be shown by them respectively, or otherwise to remain in your custody

as aforesaid until such debt is satisfied, unless any of such persons respectively gives sufficient security for his appearance at the said Court within thirty days after the giving of the security, or so soon thereafter as the Court shall sit, for which you will be held answerable; and what you do in the premises make appear before Us in Our High Court of Justice at Toronto (or at the next Court of General Sessions of the Peace for the county (or district) of, as the case may be), immediately after the execution hereof, and have then and there this Writ.

Witness _____ this day
of _____ 19 .

A. B.,

Deputy Clerk of the Crown (or Clerk of the Peace, or as the case may be) for the County of

R.S.O. 1897, c. 106, Sched.

No. 132.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting *Estreats*.

First Reading	day of	1910.
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Mr. Foy

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act to amend the Mercantile Law.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

SUBTIES:

Paying principals' debt to be
entitled to securities, re-
medies, etc., of the creditor,
s. 3.

Advances on joint account, s.
4

Death of one of joint con-
tractors, s. 5.

Joint covenantees, s. 6.

BILLS OF LADING:

Rights under, transferable by
endorsement, s. 7.

WAREHOUSE RECEIPTS, ETC., AS
COLLATERAL SECURITY, SS. 8-
14.

REPEAL, s. 15.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Mercantile Law* Short title.
Amendment Act." R.S.O. 1897, c. 145, s. 1.

2. In this Act,

Interpreta-
tion.

(a) "Bill of lading" shall include all receipts for "Bill of
goods accompanied by an undertaking to trans- lading."
fer the same from the place where they were
received to some other place by any mode of
carriage whatever, whether by land or water or
partly by land and partly by water.

(b) Goods shall include wares and merchandise. "Goods."

(c) "Warehouse receipt" shall mean any receipt given "Warehouse
by any person for any goods, in his actual, receipt."
visible and continued possession as bailee there-
of in good faith and not as of his own property,
and shall include

(i) A receipt given by any person who is the
owner or keeper of a harbour, cove, pond,
wharf, yard, warehouse, shed, storehouse,

or other place for the storage of goods, delivered to him as bailee, and actually in the place or in one or more of the places owned or kept by him whether such person is engaged in other business or not;

(ii) A receipt given by any person in charge of logs or timber in transit from timber limits or other lands to the place of destination of such logs or timber, and

(iii) A specification of timber.

See R.S.C. c. 29, s. 2g (The Bank Act).

SURETIES' RIGHT TO ASSIGNMENT, ETC.

Right of sureties paying the principal debt, etc., to assignment.

3.—(1) Every person who, being surety for the debt or duty of another or being liable with another for any debt or duty pays the debt or performs the duty, shall be entitled to have assigned to him or to a trustee for him, every judgment, specialty, or other security which is held by the creditor in respect of such debt or duty, whether such judgment, specialty or other security be or be not deemed at law to have been satisfied by the payment of the debt or the performance of the duty. R.S.O. 1897, c. 145, s. 2.

And to remedies on such assignment.

(2) Such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and, on proper indemnity, to use the name of the creditor in any action or other proceeding in order to obtain from the principal debtor, or any co-surety, co-contractor or co-debtor, indemnification for the advances made and loss sustained by such person, and the payment or performance made by him shall not be a defence to such action or other proceeding by him. R.S.O. 1897, c. 145, s. 3.

What only one co-surety, etc., may recover from another.

(3) No co-surety, co-contractor or co-debtor shall be entitled to recover from any other co-surety, co-contractor or co-debtor, more than the just proportion to which, as between themselves, such last mentioned person is justly liable. R.S.O. 1897, c. 145, s. 4.

Effect of advance on joint account, etc.

4.—(1) Where in a mortgage or an obligation for payment of money, or a transfer of mortgage or of such obligation, made after the 1st day of July, 1886, the sum, or any part of the sum advanced or owing is expressed to be advanced by or owing to more persons than one out of money, or as money, belonging to them on a joint account, or where a mortgage, or such an obligation, or such a trans-

Imp. Act 44-45 V. c. 41, s. 61.

fer is made to more persons than one, jointly, and not in shares—the mortgage money, or other money or money's worth, for the time being due to such persons on the mortgage or obligation, shall be deemed to be and remain money or money's worth belonging to those persons on a joint account, as between them and the mortgagor or obligor; and the receipt in writing of the survivors or last survivor of them, or of the personal representative of the last survivor, shall be a complete discharge for all money or money's worth for the time being due, notwithstanding any notice to the payer of a severance of the joint account.

(2) This section shall apply only if and as far as a contrary intention is not expressed in the mortgage, or obligation, or transfer, and shall have effect subject to the terms thereof. R.S.O. 1897, c. 121, s. 13.

5. In case any one or more joint contractors, obligors or partners die, the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners, may proceed by action against the representatives of the deceased contractor, obligor or partner, in the same manner as if the contract, obligation or promise had been joint and several, and this notwithstanding there may be another person liable under such contract, obligation or promise still living, and an action pending against such person; but the property and effects of stockholders in chartered banks or the members of other incorporated companies, shall not be liable to a greater extent than they would have been if this section had not been passed. R.S.O. 1897, c. 129, s. 15.

Representatives of deceased joint contractors liable although the other joint contractors be living.

6.—(1) A covenant, and a contract under seal, and a bond or obligation under seal, made with two or more jointly to pay money or to make a conveyance, or to do any other act, to them or for their benefit, shall be deemed to include, and shall, by virtue of this Act imply, an obligation to do the act to, or for the benefit of, the survivor or survivors of them, and to, or for the benefit of, any other person to whom the right to sue on the covenant, contract, bond, or obligation devolves.

Effect of covenant with two or more jointly. Imp. Act 44 and 45 Vict., c. 41, s. 60.

(2) This section shall extend to a covenant implied by *The Transfer of Property Act*.

(3) This section applies only if and as far as a contrary intention is not expressed in the covenant, contract, bond, or obligation, and shall have effect subject to the covenant, contract, bond, or obligation, and to the provisions therein contained.

BILLS OF LADING.

Rights and liabilities of consignees and endorsees of bills of lading.
Imp. Act. 18-19 V. c. 111.

7.—(1) Every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon or by reason of such consignment or endorsement, shall have and be vested with all rights of action, and be subject to the same liabilities in respect of the goods as if the contract contained in the bill of lading had been made with him.

Certain rights and liabilities not affected.

(2) Nothing in this section shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee, by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason of or in consequence of such consignment or endorsement.

Bills of lading as evidence against signer.

(3) Every bill of lading in the hands of a consignee or endorsee for valuable consideration representing goods to have been shipped on board a vessel, train or conveyance of any kind, shall be conclusive evidence of shipment as against the master or other person signing the same, notwithstanding that the goods or some part thereof may not have been so shipped, unless the holder of the bill of lading has actual notice at the time of receiving the same that the goods had not in fact been laden on board, or unless the bill of lading has a stipulation to the contrary; but the master or other person so signing, may exonerate himself in respect to such misrepresentation, by shewing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or of some person under whom the holder claims. R.S.O. 1897, c. 145, s. 5.

WAREHOUSE RECEIPTS, ETC., AS COLLATERAL SECURITY.

Assignment of warehouse receipts.

8.—(1) The owner of or other person entitled to receive the goods included in a warehouse receipt or bill of lading, may transfer such warehouse receipt or bill of lading by endorsement thereon signed by himself, his attorney or agent to any other person as collateral security for any debt owing by such person.

(2) The endorsement shall from the date thereof vest in the transferee all the right and title of the endorser to or in such goods subject to the right of the endorser to have such warehouse receipt or bill of lading re-transferred to him if the debt is paid when due.

(3) If the debt is not paid when due the person to whom such warehouse receipt or bill of lading was so transferred

may sell the goods and retain the proceeds or so much thereof as will be equal to the amount of the debt, and shall return the overplus, if any, to the endorser. R.S.O. 1897, c. 147, s. 7.

9. Where a person by whom a warehouse receipt or bill of lading might be given for goods in his capacity as a miller, or the owner or keeper of a harbour, cove, pond, wharf, yard, warehouse, shed, storehouse or other place for the storage of goods delivered to him as bailee, master of a vessel or carrier, is the owner of or entitled himself otherwise than in such capacity, to receive the goods, any warehouse receipt or bill of lading or any acknowledgment or certificate intended to answer the purpose thereof, given and endorsed by such person, shall be as valid and effectual for the purposes of this Act as if the warehouse receipt, bill of lading, acknowledgment or certificate had been given by one person and endorsed by another. R.S.O. 1897, c. 145, s. 8.

Warehouse receipt or bill of lading given by owner who is a warehouse man.

10. If goods are manufactured or produced from the goods or any of them, included in or covered by any warehouse receipt, while so covered, the person holding such warehouse receipt shall hold or continue to hold such goods during the process and after the completion of such manufacture or production, with the same right and title and for the same purposes and upon the same conditions, as he held or could have held the original goods. R.S.C. 1906, c. 29, s. 89 (1).

As to goods manufactured from articles pledged.

11.—(1) No goods other than timber, boards, deals, staves, sawlogs or other lumber shall be held in pledge for any period exceeding six months.

Limit of time for holding goods in pledge.

(2) No lumber, boards, deals, staves, sawlogs or other lumber shall be held in pledge for any period exceeding 12 months.

(3) No transfer of a bill of lading or warehouse receipt shall be made under this Act to secure the payment of any debt unless the debt is contracted at the time of the acquisition of the bill of lading or warehouse receipt or upon the written promise or agreement that such bill of lading or warehouse receipt would be given to such person. R.S.O. 1897, c. 145, s. 9 and 10 (1).

12. All advances made on the security of a bill of lading or warehouse receipt, shall give to the person making the advances a claim for the repayment of the advances on the goods therein mentioned, or into which they have been converted, prior to and by preference over the claim of any

Prior claim of person making advance over unpaid vendor.

Proviso.

unpaid vendor or other creditor, save and except claims for wages for labour performed in making and transporting timber, boards, deals, staves, sawlogs or other lumber: Provided that such preference shall not be given over the claim of an unpaid vendor who had a lien upon the goods at the time of the acquisition by such person of the bill of lading or warehouse receipt, unless the same was acquired by him without knowledge of such lien.

Sale of goods on non-payment of debt.

13. In the event of the non-payment at maturity of any debt or liability secured by a bill of lading or warehouse receipt, the holder thereof may sell the goods mentioned therein or so much thereof as will suffice to pay such debt or liability with interest and expenses, returning the surplus, if any, to the person from whom the bill of lading or warehouse receipt, or the goods mentioned therein, as the case may be, were acquired; Provided that such power of sale shall be exercised subject to the following provisions:

Proviso as to

Notice of sale of timber, etc.

(a) No sale of any timber, boards, deals, staves, sawlogs or other lumber shall be made under this Act without the consent in writing of the owner until notice of the time and place of such sale has been given by registered letter to the last known address of the pledgor at least 30 days before the sale thereof.

Notice of sale of other goods.

(b) No goods other than timber, boards, deals, staves, sawlogs or other lumber shall be sold under the provisions of this section without the consent of the owner until notice of the time and place of sale has been given by a registered letter to the last known address of the pledgor thereof at least 10 days before the sale thereof.

Sale to be by auction.

(c) Every sale under such power of sale without the consent of the owner shall be made by public auction after notice thereof by advertisement, in at least two newspapers published in or nearest to the place where the sale is to be made, stating the time and place thereof. *See R.S.O. 1897, c. 145, ss. 9, 10 and 11; R.S.C. c. 29, s. 89 (The Bank Act).*

Transfer of warehouse receipts for crude petroleum issued by incorporated companies.

14.—(1) Every transportation receipt, warehouse receipt, accepted order and certificate for crude petroleum, issued by any incorporated company authorized to carry on the business of warehousing, shall be transferable by endorsement, either special or in blank, and upon being endorsed in blank shall become transferable by delivery, and every such en-

dorsement or transfer by delivery shall transfer all right of property and possession of the petroleum mentioned in any such transportation or warehouse receipt, accepted order or certificate, to the endorsee or transferee thereof, subject to the terms and conditions of such transportation or warehouse receipt, accepted order or certificate, as fully and completely as if a sale of the petroleum mentioned therein had been made in the ordinary way.

(2) On the delivery of any petroleum mentioned in such document, by such company, in good faith, to a person in possession of such transportation or warehouse receipt, accepted order or certificate so endorsed or transferred, the company shall be freed from all further liability in respect thereof, and the endorsee or transferee or holder of every such transportation or warehouse receipt, accepted order or certificate, to whom the property in the petroleum mentioned therein passes by reason of such endorsement or delivery, shall have transferred to and vested in him all rights of action and be subject to the same liabilities in respect of such petroleum as if the contract contained in the transportation or warehouse receipt, accepted order or certificate had been made by the company with himself. R.S.O. 1897, c. 145, s. 12.

15. Chapter 145 of the Revised Statutes, 1897, and all ^{Repeal.} amendments thereto are repealed.

No. 133.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend the Mercantile Law.

First Reading	day of	1910.
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Mr. FOY.

TORONTO:

Printer to the King's Most Excellent Majesty.

PRINTED BY L. K. CAMERON,

An Act respecting Mortgages on Real Estate.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

PART I., ss. 3-17.

RIGHTS AND OBLIGATIONS
OF MORTGAGORS AND
MORTGAGEES.OBLIGATION TO TRANSFER MORT-
GAGE, s. 3.

INSPECTION OF TITLE DEEDS, s. 4.

APPLICATION OF INSURANCE
MONEY, s. 5.

IMPLIED COVENANTS, ss. 6, 7.

RELEASE OF EQUITY OF REDEMP-
TION WITHOUT MERGER, s. 8.

ASSIGNMENT BY EXECUTORS, s. 9.

RECEIPTS OF MORTGAGEE OR SUR-
VIVOR OF TWO OR MORE MORT-
GAGEES, ETC., TO BE EFFEC-
TUAL DISCHARGES, s. 10.DEFENCE OF PURCHASE FOR VALUE
WITHOUT NOTICE, s. 11.RIGHT OF MORTGAGEE TO DIS-
TRAIN LIMITED, ss. 12, 13.PAYMENT AFTER DEFAULT WITH-
OUT NOTICE, s. 14-17.

PART II., ss. 18-26.

STATUTORY POWERS.

POWER OF SALE AND POWER TO
INSURE IMPLIED, s. 18.SALES UNDER STATUTORY POWER,
ss. 19-25.WHEN MORTGAGE CONTAINS POWER
IN SHORT FORM, s. 26.

PART III., ss. 27-29.

GENERAL PROVISIONS AS TO
POWER OF SALE.RESTRICTION AS TO PROCEEDINGS
ON MORTGAGES, s. 28.PAYMENT IN TERMS OF NOTICE TO
BE ACCEPTED, s. 29.COSTS AND TAXATION, s. 29 (3, 4).
REPEAL, s. 30.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Mortgages Act.*"

Short title.

2. In this Act,

Interpretation.

(a) "Conveyance" shall include assignment, appoint-
ment, lease, settlement, and other assurance and
covenant to surrender made by deed on a sale,
mortgage, demise or settlement of any property
or on any other dealing with or for any property;
and "convey" shall have a meaning correspond-
ing with that of conveyance.

"Convey-
ance."

"Convey."

(b) "Incumbrance" shall include a mortgage in fee,
or for a less estate, a trust for securing money,
a lien, and a charge of a portion, annuity or
other capital or annual sum; and "incumbrancer"
shall have a meaning corresponding with that
of incumbrance, and shall include every person
entitled to the benefit of an incumbrance, or to
require payment or discharge thereof.

"Incum-
brance.""Incum-
brancer."

- "Land." (c) "Land" shall include tenements and hereditaments, corporeal or incorporeal, houses and other buildings, and also an undivided share in land.
- "Mortgage." (d) "Mortgage" shall include any charge on any property for securing money or money's worth; "mortgage money" shall mean money or money's worth, secured by a mortgage; "mortgagor" shall include any person deriving title under the original mortgagor, or entitled to redeem a mortgage, according to his estate, interest, or right in the mortgaged property; and "mortgagee" shall include any person deriving title under the original mortgagee. R.S.O. 1897, c. 121, s. 1.
- "Mortgage money."
- "Mortgagor."
- "Mortgagee."

PART I.

RIGHTS AND OBLIGATIONS OF MORTGAGORS AND MORTGAGEES.

Obligation on mortgagee to transfer instead of reconveying.

Imp. Act, 44 and 45 V. c. 41, s. 15.

3.—(1) Notwithstanding any stipulation to the contrary, where a mortgagor is entitled to redeem, he may require the mortgagee, instead of giving a certificate of payment or reconveying, and on the terms on which he would be bound to re-convey, to assign the mortgage debt and convey the mortgage property to any third person, as the mortgagor directs; and the mortgagee shall be bound to assign and convey accordingly.

Imp. Act, 45 and 46 V. c. 39, s. 12.

(2) The right of the mortgagor to require an assignment shall belong to and be capable of being enforced by each incumbrancer, or by the mortgagor, notwithstanding any intermediate incumbrance; but a requisition of an incumbrancer shall prevail over that of the mortgagor, and as between incumbrancers a requisition of a prior incumbrancer shall prevail over that of a subsequent incumbrancer.

(3) This section shall not apply if the mortgagee is or has been in possession. R.S.O. 1897, c. 121, s. 2.

Power for mortgagor to inspect title deeds.

Imp. Act, 44 and 45 V. c. 41, s. 16.

4. Notwithstanding any stipulation to the contrary, a mortgagor, as long as his right to redeem subsists, shall be entitled, at reasonable times, on his request, and at his own cost and on payment of the mortgagee's costs and expenses in that behalf, to inspect and make copies or abstracts of or extracts from the documents of title relating to the mortgaged property in the custody or power of the mortgagee. R.S.O. 1897, c. 121, s. 3.

5.—(1) All money payable to a mortgagor on an insurance of the mortgaged property, including effects, whether affixed to the freehold or not, being or forming part thereof, shall, if the mortgagee so requires, be applied by the mortgagor in making good the loss or damage in respect of which the money is received.

Insurance money.
Imp. Act, s. 23.

(2) Without prejudice to any obligation to the contrary imposed by law or by special contract, a mortgagee may require that all money received on an insurance of the mortgaged property be applied in or towards the discharge of the money due under his mortgage. R.S.O. 1897, c. 121, s. 4.

6. There shall, in the several cases in this section mentioned, be deemed to be included, and there shall in those several cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed by him with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common, that is to say:—

Covenants to be implied.
Imp. Act, s. 7.

(a) In a conveyance by way of mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner, namely, covenants,

On mortgage, by beneficial owner.

- (I) For payment of the mortgage money and interest, and observance in other respects of the proviso in the mortgage;
- (II) For good title;
- (III) For right to convey;
- (IV) That, on default, the mortgagee shall have quiet possession of the land; free from all incumbrances;
- (V) That the mortgagor will execute such further assurances of the said lands as may be requisite; and
- (VI) That the mortgagor has done no act to incumber the land mortgaged;

Rev. Stat.
c. 126.

according to the forms of covenants for such purposes set forth in Schedule B to *The Short forms of Mortgages Act*, subject to the provisions of that Act.

On mortgage
of leaseholds,
by beneficial
owner.

- (b) In a conveyance by way of mortgage of leasehold property, the following further covenants by the person who conveys and is expressed to convey, as beneficial owner, namely,

Validity of
lease.

- (I) That the lease or grant creating the term or estate for which the land is held is, at the time of conveyance, a good, valid, and effectual lease or grant of the land conveyed, and is in full force, unforfeited, and unsurrendered, and in nowise become void, or voidable, and that all the rents reserved by, and all the covenants, conditions and agreements contained in the lease or grant and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed and performed, have been paid, observed and performed, up to the time of conveyance; and also

Payment of
rent and per-
formance of
covenants.

- (II) That the person so conveying, or the persons deriving title under him, will at all times, as long as any money remains on the security of the conveyance, pay, observe and perform, or cause to be paid, observed and performed, all the rents reserved by, and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him, to be paid, observed and performed, and will keep the person to whom the conveyance is made and those deriving title under him, indemnified against all actions, proceedings, costs, charges, damages, claims and demands, if any, to be incurred or sustained by him or them by reason of the non-payment of such rent, or the non-observance or non-performance of such covenants, conditions and agreements, or any of them. R.S.O. 1897, c. 121, s. 5.

Implied cove-
nants in mort-
gages are
joint and
several.
Imp. Act,
s. 28.

7. In a mortgage, where more persons than one are expressed to convey as mortgagors, or to join as covenantors, the implied covenants on their part shall be deemed to be joint and several covenants by them; and where there are

more mortgagees than one, the implied covenant, with them shall be deemed to be a covenant with them jointly, unless the amount secured is expressed to be secured to them in shares or distinct sums; in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him. R.S.O. 1897, c. 121, s. 6.

8.—(1) A mortgagee of freehold or leasehold property, may take and receive from the mortgagor a release of the equity of redemption in such property, or may purchase the same under any judgment or decree or execution without thereby merging the mortgage debt as against any subsequent mortgagee or person having a charge on the same property. Mortgagee of freehold property, etc., may receive a release, etc., without merger of debt. R.S.O. 1897, c. 121, s. 8.

(2) Where a prior mortgagee so acquires the equity of redemption of the mortgagor, no subsequent mortgagee shall be entitled to foreclose or sell such property without redeeming or selling, subject to the rights of such prior mortgagee, in the same manner as if such prior mortgagee had not acquired the equity of redemption. Where mortgagee acquires equity of redemption, subsequent mortgagee not entitled to foreclose or sell property without redeeming, etc. R.S.O. 1897, c. 121, s. 9.

(3) This section shall not affect any priority or claim any mortgagee may have under the registry laws. Priority under registry laws not to be affected. R.S.O. 1897, c. 121, s. 10.

9. Where a person entitled to any freehold land by way of mortgage has died, and his executor or administrator has become entitled to the money secured by the mortgage, or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the mortgage, or on receipt of the consideration money for the assignment, may convey, assign, release or discharge the mortgage debt and the mortgagee's estate in the land; and such executor or administrator shall have the same power as to any part of the land on payment of some part of the mortgage debt, or on any arrangement for exonerating the whole, or any part of the mortgaged land, without payment of money; and such conveyance, assignment, release or discharge shall be as effectual as if the same had been made by the persons having the mortgagee's estate. Executors of mortgagee may assign, etc. R.S.O. 1897, c. 121, s. 11.

(As to Mortgages on Joint Account see *Mercantile Law Amendment Act*, s. 4).

Receipts of surviving mortgagee, etc., to be effectual discharges.

10. The payment in good faith of any money to and the receipt thereof by the survivor or survivors of two or more mortgagees, or the executors or administrators of such survivor, or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the security. R.S.O. 1897, c. 121, s. 14.

Purchaser of mortgage may set up defence of purchase for value without notice.

11. The purchaser in good faith of a mortgage may to the extent of the mortgage, and except as against the mortgagor, set up the defence of purchase for value without notice in the same manner as a purchaser of the mortgaged property might do. R.S.O. 1897, c. 121, s. 33.

Right of mortgagee to distrain limited.

12. The right of a mortgagee to distrain for interest in arrear upon a mortgage made after the 25th day of March, 1886, shall be limited to the goods and chattels of the mortgagor, and to such of them as are not exempt from seizure under execution. R.S.O. 1897, c. 121, s. 15.

Mortgagee's right of distress limited to one year's interest or rent.

13.—(1) As against creditors of a mortgagor or person in possession of mortgaged premises under a mortgagor, the right, if any, to distrain upon the mortgaged premises for arrears of interest or for rent, in the nature of or in lieu of interest under the provisions of any mortgage executed after the 23rd day of April, 1887, shall be restricted to one year's arrears of such interest or rent.

(2) This restriction shall not apply unless some one of such creditors shall be an execution creditor, or unless there shall be an assignee for the general benefit of such creditors appointed before lawful sale of the goods and chattels distrained, nor unless the officer executing such writ of execution, or such assignee shall, by notice in writing to be given to the person distraining, or his attorney, bailiff, or agent, before such lawful sale, claims the benefit of such restriction.

(3) When such notice is given, the distrainor shall relinquish to the officer or assignee the goods and chattels so distrained, upon receiving one year's arrears of such interest or rent and his reasonable costs of distress, or if such arrears and costs shall not be paid or tendered he shall sell only so much of the goods and chattels distrained as shall be necessary to satisfy one year's arrears of such interest or rent and the reasonable costs of distress and sale, and shall thereupon relinquish any residue of them, and pay any residue of moneys, proceeds thereof so distrained, to such officer or assignee.

(4) An officer executing an execution, or an assignee who pays any money to relieve goods and chattels from distress under this section, shall be entitled to reimburse himself therefor out of the proceeds of the sale thereof. Reimbursement of officer or assignee.

(5) The goods and chattels distrained shall not be sold except after such public notice as is now required to be given by a landlord who sells goods and chattels distrained for rent. Notice of sale. R.S.O. 1897, c. 121, s. 16.

14.—(1) In the case of mortgages made after the 1st day of July, 1888, and before the 12th day of June, 1903, unless it is otherwise expressly provided in the mortgage or otherwise with respect to notice or the payment of interest in lieu of notice, the mortgagor may pay the whole principal money if overdue or any instalment thereof which has become payable according to the terms and conditions of the mortgage without previous notice to the mortgagee and without the payment of any interest in lieu of such notice. Payment of principal after default.

(2) Principal money or any instalment thereof shall not be deemed to be overdue or payable within the meaning of this section where it has become payable only by reason of default in payment of part of the principal or interest. *See* R.S.O. 1897, c. 121, s. 17 (1); 3 Edw. VII. c. 11, s. 2.

15.—(1) Notwithstanding any agreement to the contrary, where default has been made in the payment of any principal money secured by a mortgage of freehold or leasehold property made on or after the 12th day of June, 1903, the mortgagor or person entitled to make such payment, may at any time upon payment of three months' interest on the principal money so in arrear, pay the same, or he may give the mortgagee at least three months' notice, in writing, of his intention to make such payment at a time named in the notice, and in the event of his making such payment on the day so named he shall be entitled to make the same without any further payment of interest except to the date of payment. Mortgagor in default to be entitled to redeem on giving three months' notice, or on paying three months' interest in lieu of notice.

(2) If the mortgagor or person entitled to make such payment fails to make the same at the time mentioned in the notice he shall thereafter be entitled to make such payment only on paying the principal money so in arrear and interest thereon to the date of payment together with three months' interest in advance.

(3) Nothing in this section shall affect or limit the right of the mortgagee to recover by action or otherwise the prin-

principal money so in arrear after default has been made. 3 Edw. VII. c. 11, s. 1.

Mortgages may be redeemed at expiration of five years from date thereof.

16.—(1) Where any principal money or interest secured by a mortgage of freehold or leasehold property, made after the 1st day of July, 1903, is not, under the terms of the mortgage, payable till a time more than five years after the date of the mortgage, then if, at any time after the expiration of such five years, any person liable to pay or entitled to redeem tenders or pays to the person entitled to receive the money the amount due for principal money and interest to the time of such tender or payment, together with three months' further interest in lieu of notice, no further interest shall be chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage.

Rev. Stat. c. 205.

(2) Nothing in this section shall affect the provisions of section 25 of *The Loan Corporations Act*, or shall apply to any mortgage given by a joint stock company or other corporation nor to any debenture issued by any such company or corporation for the payment of which security has been given on freehold or leasehold property. 3 Edw. VII. c. 11, s. 3; see R.S.C. 1906, c. 120, s. 10, *part*.

Paying off mortgage when provision made for a lower rate for punctual payment.

17.—(1) Where in a mortgage falling due after the 20th day of April, 1907, provision is made that if interest is paid promptly it will be accepted at a lower rate than that provided in such mortgage, and interest at such lower rate has been paid according to such condition up to the time when all the principal money has become payable, any person liable to pay or entitled to redeem shall be entitled to pay the principal money and interest on the same at such lower rate at any time after the time for payment of the principal money on giving three months' notice of his intention to make such payment or on paying three months' interest at such lower rate in lieu of notice. 7 Edw. VII. c. 27, s. 1.

Mortgagor failing to pay according to notice.

(2) If the mortgagor, or person entitled to make such payment, fails to make the same at the time mentioned in such notice, he shall thereafter be entitled to make such payment only on paying the principal and interest at the lower rate to the date of payment, together with three months' interest in advance. 7 Edw. VII. c. 27, s. 2.

PART II.

STATUTORY POWERS.

18. Where any principal money is secured by mortgage of land executed after the 11th day of March, 1879, the mortgagee shall at any time after the expiration of four months from the time when the principal money shall have become payable, according to the terms of the mortgage, or after any interest on the principal money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which, by the terms of the mortgage, ought to be paid by the mortgagor, have the following powers, to the like extent as if they had been in terms conferred by the mortgage, but not further, namely:

Powers incident to mortgages after default for certain time.

(a) A power to sell, or concur with any other person in selling, the whole or any part of the mortgaged property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to buy in at an auction and to rescind or vary contracts for sale, and to re-sell the land, from time to time, in like manner without being answerable for any loss occasioned thereby.

Power of sale.

(b) A power to insure and keep insured against loss or damage by fire any building or any effects or property of an insurable nature, whether affixed to the freehold or not, being or forming part of the mortgaged property, and the premiums paid for any such insurance shall be a charge on the mortgaged property, in addition to the mortgage money and with the same priority and with interest at the same rate as the mortgage money. R.S.O. 1897, c. 121, s. 18; 44-45 Vict. (Imp.), c. 41, s. 19 (2).

Power to insure.

19. A receipt for purchase money given by the person exercising the power of sale by the next preceding section conferred, shall be a sufficient discharge to the purchaser, who shall not be bound to see to the application of the purchase money. R.S.O. 1897, c. 121, s. 19.

Receipts for purchase money sufficient discharges.

20.—(1) No sale under the power conferred by section 18 shall be made until after two months' notice in writing, Form 1, has been given to every subsequent incumbrancer, and to the mortgagor, either personally or at his usual or last place of residence in Ontario.

Notice before sale.

(2) The notice may be given at any time after any default in making a payment provided for by the mortgage.

(3) In case of the death of the person entitled subject to the mortgage, and of his interest passing to an infant, the notice shall be given to his personal representative as well as to the infant.

(4) The notice to the infant shall be served upon his guardian, and if he has no guardian upon the Official Guardian and in every case upon the infant himself, if over the age of twelve years. R.S.O. 1897, c. 121, s. 20.

Improper sale
not to defeat
title of purchaser.

21. Where a conveyance has been made in professed exercise of the power of sale conferred by section 18, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that such power had been improperly or irregularly exercised, or that such notice has not been given; but any person damnified by an unauthorized, improper, or irregular exercise of the power, shall have his remedy against the person exercising the power. R.S.O. 1897, c. 121, s. 21.

44 and 45
Vic., Imp., c.
41, s. 21 (2).

(As to registration of notice, see *Registry Act*, s.).

Application of
purchase
money.

22. The money arising from the sale shall be applied by the person receiving the same as follows:

Firstly, in payment of all the expenses incident to the sale or incurred in any attempted sale;

Secondly, in discharge of all interest and costs then due in respect of the mortgage under which the sale was made;

Thirdly, in discharge of all the principal money then due in respect of such mortgage; and

Fourthly, in payment of the amounts due to the subsequent incumbrancers according to their priorities,

and the residue shall be paid to the mortgagor. R.S.O. 1897, c. 121, s. 25.

Conveyance to
the purchaser.

23. The person exercising the power of sale shall have power to convey or assign to and vest in the purchaser the

property sold, for all the estate and interest therein of the mortgagor and of which he had power to dispose. R.S.O. 1897, c. 121, s. 26.

24. At any time after the power of sale shall have become exercisable, the person entitled to exercise the same shall be entitled to demand and recover, from the mortgagor all deeds and documents in his possession or power relating to the mortgaged property, or to the title thereto, which he would have been entitled to demand and recover if the property had been conveyed, appointed, surrendered, or assigned to and was then vested in him for all the estate and interest of the mortgagor and of which he had power to dispose; and where the legal estate is outstanding in a trustee, the mortgagee, or any purchaser from him, shall be entitled to call for a conveyance of the legal estate to the same extent as the mortgagor could have called for such a conveyance if the mortgage had not been made. R.S.O. 1897, c. 121, s. 27.

Owner of charge may call for title deeds and conveyance of legal estate.

25. So much of this Part as confers a power to sell shall not apply in the case of a mortgage which contains a power of sale except as in section 26 provided; and so much as confers a power to insure shall not apply in the case of a mortgage which contains a power to insure; nor shall any of the provisions of this Part apply to a mortgage which contains a declaration that this Part shall not apply thereto. R.S.O. 1897, c. 121, s. 28.

Provisions as to sale, etc., not to apply in certain cases.

26.—(1) Where a mortgage made in pursuance of *The Short Forms of Mortgages Act* contains a power of sale in the form No. 14, in Column One of Schedule B to that Act, the mortgagee, may, in exercising the power, in lieu of taking the proceedings provided for by such form, Column Two, take proceedings under and have the benefit of the provisions of this Part, except that such power shall not be exercisable until after at least four months' default and at least two months' notice, or such longer periods as may by the power contained in such mortgage be fixed therefor, and this Part shall apply to a sale made under such power.

Power of sale. Rev. Stat. c. 126.

Mortgagee having power of sale may proceed under this part.

(2) Where a mortgage purporting to be made in pursuance of *The Short Forms of Mortgages Act* contains a power of sale which provides for a sale without notice, the mortgagee may take proceedings to sell under and have the benefit of the provisions of this Part as fully and effectually as if the mortgage had not contained a power of sale.

When mortgage provides for sale without notice. Rev. Stat. c. 126.

(3) Subsection 2 shall apply to all mortgages whether heretofore or hereafter made. R.S.O. 1897, c. 121, s. 29.

PART III.

GENERAL PROVISIONS AS TO POWER OF SALE.

Notice of sale shall state amounts claimed.

27. A notice of exercising a power of sale shall state the amounts claimed to be due for principal, interest and cost respectively. *New.*

When demand of payment made or notice of intention to exercise power of sale given, no other proceedings to be taken until expiration of time named in notice or demand, without order of a judge.

28.—(1) Where, pursuant to any condition or proviso contained in a mortgage there has been made or given a demand or notice either requiring payment of the money secured by such mortgage, or any part thereof, or declaring an intention to proceed under and exercise the power of sale therein contained, no further proceeding and no action either to enforce such mortgage, or with respect to any clause, covenant or provision therein contained, or to the mortgaged property or any part thereof, shall, until after the lapse of the time at or after which, according to such demand or notice, payment of the money is to be made, or the power of sale is to be exercised or proceeded under, be commenced or taken unless and until an order permitting the same has been obtained from a Judge of the County or District Court of the County or District in which the mortgaged property or any part thereof is situate, or from a Judge of the High Court.

Proof on which order may be granted.

(2) The order may be obtained *ex parte*, upon such proof as satisfies the Judge that it is reasonable and equitable that the proposed action or proceeding should be permitted.

This section not to apply to proceedings to stay waste, etc.

(3) This section shall not apply to proceedings to stay waste or other injury to the mortgaged property. R.S.O. 1897, c. 121, s. 31.

(As to costs of order see *The Judges' Orders' Enforcement Act*).

Payment to be accepted if made in terms of notice.

29.—(1) Where such demand or notice requires payment of all money secured by or under a mortgage, the person making such demand or giving such notice shall be bound to accept and receive payment of the same if made as required by the terms of such demand or notice.

Payment or tender of costs.

(2) If there is a dispute as to the costs payable by the person or on whose behalf such payment is either made or tendered such costs shall, on three clear days' notice to such person by the person claiming the same, be taxed and ascertained by the Clerk of the County or District Court, or by the Local Master of the county or district in which the mortgaged property or any part thereof is situate.

(3) If within ten days after the costs have been so taxed and ascertained, payment of such money and costs is duly made or tendered to the person entitled thereto, or to his solicitor or agent, the same shall be deemed a compliance with such demand or notice. R.S.O. 1897, c. 121, s. 32.

(4) A mortgagee's costs of and incidental to the exercise of a power of sale, whether under this Part or otherwise may, without an order, be taxed by one of the taxing officers of the Supreme Court at Toronto or by a local master, having jurisdiction in the county or district in which the mortgaged property or any part of it is situate, at the instance of any person interested. ^{Taxation of costs.} R.S.O. 1897, c. 121, s. 30.

30. Chapter 121 of the Revised Statutes of Ontario, 1897, ^{Repeal.} except section 34, and all amendments to the said chapter are repealed.

FORM I.

NOTICE OF SALE UNDER MORTGAGE.

I hereby require you on or before the day of 19 ,
(a day not less than two calendar months from the service of the notice, and not less than six months after the default), to pay off the principal money and interest secured by a certain mortgage dated the day of 19 , and expressed to be made between (here state parties and describe mortgaged property), which mortgage was registered on the day of 19 (and if the mortgage has been assigned add: and has since become the property of the undersigned). And I hereby give you notice that the amounts due on the said mortgage for principal, interest, and costs respectively, are as follows: (set the same forth).

And unless the principal money, interest and costs are paid on or before the said day of 19 , I shall sell the property comprised in the said mortgage under the authority of *The Mortgages Act*.
Dated the day of 19 .

R.S.O. 1897, c. 121, s. 22.

No. 134.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Mortgages of Real
Estate.

First Reading day of 1910.

Mr. Foy

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting the Limitation of Actions.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

PART I.—REAL PROPERTY:

Right to refuse relief on the ground of acquiescence, s. 3.

No entry by the Crown after 60 years from right accrued, s. 4.

LAND OR RENT:

No land or rent to be recovered but within ten years, s. 5.

On dispossession, s. 6 (1).

On death, s. 6 (2).

On alienation, s. 6 (3).

Wild lands, s. 6 (4).

Rent under lease, s. 6 (5).

Tenancy from year to year, s. 6 (6).

Tenancy at will, s. 6 (7, 8).

Forfeiture or breach of condition, s. 6 (9, 10).

Future estates, s. 6 (11, 12).

PERIOD OF LIMITATION AS TO CERTAIN FUTURE ESTATES, s. 7.

ADMINISTRATOR TO CLAIM FROM DEATH OF DECEASED, s. 8.

ENTRY NOT TO BE DEEMED POSSESSION, s. 9.

CONTINUAL CLAIM NOT TO PRESERVE RIGHTS, s. 10.

DESCENT CAST, WARRANTY, ETC., NOT TO BAR RIGHT OF ENTRY OR ACTION, s. 11.

POSSESSION OF ONE JOINT TENANT, ETC., NOT TO BE DEEMED POSSESSION OF ANOTHER, s. 12.

POSSESSION OF RELATIONS NOT TO BE DEEMED POSSESSION OF THE HEIRS, s. 13.

ACKNOWLEDGMENT TO BE EQUIVALENT TO POSSESSION OR RECEIPT OF RENT, s. 14.

RECEIPT OF RENT TO BE DEEMED RECEIPT OF PROFITS, s. 15.

RIGHT OF PARTY OUT OF POSSESSION EXTINGUISHED AT THE END OF THE PERIOD LIMITED, s. 16.

WASTE LANDS OF THE CROWN, s. 17.

ACTIONS FOR RENT AND INTEREST TO BE WITHIN SIX YEARS, ss. 18, 19.

MORTGAGOR OUT OF POSSESSION BARRED AFTER TEN YEARS, s. 20.

ACKNOWLEDGMENTS, ss. 21, 22.

MORTGAGEE BARRED AFTER TEN YEARS, s. 23.

ACTIONS FOR MONEY CHARGED ON LAND AND LEGACIES, ss. 24, 25.

ACTIONS FOR DOWER, ss. 26-28.

BAR OF ESTATE TAIL, ss. 29-31.

CONCEALED FRAUD, ss. 32, 33.

EASEMENTS:

Profits *à prendre*, s. 34.

Rights of way, water and other easements, s. 35.

Interruptions, s. 36.

Light, s. 37.

Pleadings in actions claiming easements, etc., s. 38.

DISABILITIES AND EXCEPTIONS:

Telephone or telegraph wires, s. 39.

Disabilities in cases of land, or rent, ss. 40-42.

Easements, ss. 43, 44.

Exception as to lands of the Crown, s. 45.

PART II.

Trusts and trustees, ss. 46-48.

PART III.

Personal actions, ss. 49-53.

Effect of acknowledgment or part payment, etc., ss. 54-59.

PART IV.

Repeal, s. 60.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as "*The Limitations Act.*"
R.S.O. 1897, c. 133, s. 1.

Interpretation. **2.** In this Act;

"Action." (a) "Action" shall include an information on behalf of the Crown and any civil proceeding; *New.*

"Assurance." (b) "Assurance" shall mean any deed or instrument, other than a will, by which land may be conveyed or transferred;

"Land." (c) "Land" shall include messuages and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties or any of them, any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interest or any of them, are in possession, reversion, remainder or contingency; and

"Rent." (d) "Rent" shall include all annuities and periodical sums of money charged upon or payable out of land. R.S.O. 1897, c. 133, s. 2.

PART I.

REAL PROPERTY.

Right to refuse relief on the ground of acquiescence or otherwise. Imp. Act, 3-4 W. iv. c. 27, s. 27. **3.** Nothing in this Act shall interfere with any rule of equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Act. R.S.O. 1897, c. 133, s. 33.

No entry by Crown after 60 years from time right accrued. **4.—(1)** No entry, distress, or action shall be made or brought, on behalf of His Majesty, against any person for the recovery of or respecting any land or rent, or of land, or for, or concerning, any revenues, rents, issues or profits, but within sixty years next after the right to make such entry or distress, or to bring such action shall have first

accrued to His Majesty. (*See 9 Geo. 3, c. 16.*) R.S.O. 1897, c. 324, s. 41.

(2) Subsections 1 to 3, 5 to 7, and 9 to 12 of section 6 and sections 7, 9 to 12 and 14 to 16 shall apply to rights of entry, distress or action asserted by or on behalf of His Majesty. *New.* (*See R.S.O. 1897, c. 324, s. 42.*)

Application of certain sections to Crown.

Land or Rent.

5. No person shall make an entry or distress, or bring an action to recover any land or rent, but within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to some person through whom he claims, or if such right did not accrue to any person through whom he claims, then within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to the person making or bringing the same. R.S.O. 1897, c. 133, s. 4.

No land or rent to be recovered but within ten years after the right of action accrued.
Imp. Acts 3-4 Wm. iv. c. 27, s. 2; 37-38 V. c. 57, s. 1.

6.—(1) Where the person claiming such land or rent, or some person through whom he claims, has, in respect of the estate or interest claimed, been in possession or in receipt of the profits of such land, or in receipt of such rent, and has, while entitled thereto, been dispossessed, or has discontinued such possession or receipt, the right to make an entry or distress or bring an action to recover such land or rent shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession, or at the last time at which any such profits or rent were so received.

On dispossession.
Imp. Act, 3-4 W. iv. c. 27, s. 3.

(2) Where the person claiming such land or rent claims the estate or interest of a deceased person who continued in such possession or receipt, in respect of the same estate or interest, until the time of his death, and was the last person entitled to such estate or interest who was in such possession or receipt, such right shall be deemed to have first accrued at the time of such death.

On death.
Imp. Act, 3-4 W. iv. c. 27, s. 3.

(3) Where the person claiming such land or rent claims in respect of an estate or interest in possession, granted, appointed or otherwise assured by an assurance, to him or some person through whom he claims, by a person being, in respect of the same estate or interest, in the possession or receipt of the profits of the land, or in receipt of the rent, and no person entitled under such assurance has been in possession or receipt, such right shall be deemed to have first accrued at the time at which the person so claiming or

On alienation.
Imp. Act, 3-4 W. iv. c. 27, s. 3.

the person, through whom he claims, became entitled to such possession or receipt by virtue of such assurance.

As to lands
not cultivated
or improved.

(4) In the case of land granted by the Crown of which the grantee, his heirs or assigns, by themselves, their servants or agents, have not taken actual possession by residing upon or cultivating some part thereof, and of which some other person not claiming to hold under such grantee has been in possession, such possession having been taken while the land was in a state of nature, then unless it is shewn that such grantee or person claiming under him while entitled to the land had knowledge of the same being in the actual possession of such other person, the lapse of ten years shall not bar the right of such grantee or any person claiming under him to bring an action for the recovery of such land, but the right to bring an action shall be deemed to have accrued from the time that such knowledge was obtained; but no such action shall be brought or entry made after twenty years from the time such possession was taken.

Proviso.

When right
deemed to
accrue where
rent amount-
ing to \$4
reserved by
lease in writ-
ing has been
wrongfully
received.
Imp. Act, 3-4
W. iv. c. 27,
s. 9.

(5) Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent by virtue of a lease in writing, by which a rent amounting to the yearly sum of \$4 or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent, subject to such lease, or of the person through whom he claims to make an entry or distress, or to bring an action after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person so wrongfully claiming, and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled.

No person
after a ten-
ancy from
year to year
to have any
right but from
the end of the
first year or
last payment
of rent.
Imp. Act, 3-4
W. iv. c. 27,
s. 8.

(6) Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy was received, whichever last happened.

(7) Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined.

In the case of a tenant at will, the right shall be deemed to have accrued at the end of one year.
Imp. Act, 3-4 W. iv. c. 27, s. 7.

(8) No mortgagor or *cestui que trust* shall be deemed to be a tenant at will to his mortgagee or trustee within the meaning of the next preceding subsection.

Case of mortgagor or *cestui que trust*.

(9) Where the person claiming such land or rent, or the person through whom he claims, has become entitled, by reason of any forfeiture or breach of condition, such right shall be deemed to have first accrued when such forfeiture was incurred or such condition broken.

In case of forfeiture or breach of condition.
Imp. Act, 3-4 W. iv. c. 27, s. 3.

(10) Where any right to make an entry or distress, or to bring an action to recover any land or rent, by reason of any forfeiture or breach of condition, has first accrued in respect of any estate or interest in reversion or remainder and the land or rent has not been recovered by virtue of such right, the right to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued in respect of such estate or interest at the time when the same became an estate or interest in possession as if no such forfeiture or breach of condition had happened.

Where advantage of forfeiture is not taken by remainderman, he shall have a new right when his estate comes into possession.
Imp. Act, 3-4 W. iv. c. 27, s. 4.

(11) Where the estate or interest claimed is an estate or interest in reversion or remainder, or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land, or the receipt of such rent, in respect of such estate or interest, such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession.

In case of future estates.
Imp. Act, 3-4 W. iv. c. 27, s. 3.

(12) A right to make an entry or distress, or to bring an action to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion or remainder, or other future estate or interest, at the time at which the same became an estate or interest in possession, by the determination of any estate or estates in respect of which such land has been held or the profits thereof or such rent have been received, notwithstanding that the person claiming such land or rent, or some person through whom he claims, has, at any time previously to the creation of the estate or estates which have determined, been

Further provision for case of future estates.
Imp. Act, 3-4 W. iv. c. 27, s. 5.
37-38 V. c. 57, s. 2.

in the possession or receipt of the profits of such land, or in receipt of such rent. R.S.O. 1897, c. 133, s. 5.

Time limited as to future estates when person entitled to the particular estate out of possession, etc. Imp. Act, 37-38 V. c. 57, s. 2.

7.—(1) If the person last entitled to any particular estate on which any future estate or interest was expectant has not been in the possession or receipt of the profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action shall be brought, by any person becoming entitled in possession to a future estate or interest, but within ten years next after the time when the right to make an entry or distress, or to bring an action for the recovery of such land or rent, first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of those two periods is the longer.

The case of bar of future estate and of a subsequent interest created after right of entry, etc., accrued to owner of particular estate. Imp. Act, 37-38 V. c. 57, s. 2.

(2) If the right of any such person to make such entry or distress, or to bring any such action has been barred no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will or settlement executed or taking effect after the time when a right to make an entry or distress, or to bring an action for the recovery of such land or rent, first accrued to the owner of the particular estate whose interest has so determined, shall make any such entry or distress, or bring any such action, to recover such land or rent.

When the right to an estate in possession is barred, the right of the same persons to future estates shall also be barred. Imp. Act, 3-4 W. iv. c. 27, s. 20.

(3) Where the right of any person to make an entry or distress, or to bring an action to recover any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period which is applicable in such case, and such person has, at any time during such period, been entitled to any other estate, interest, right or possibility, in reversion, remainder or otherwise, in or to the same land or rent, no entry, distress or action shall be made or brought by such person, or by any person claiming through him, to recover such land or rent in respect of such other estate, interest, right or possibility, unless in the meantime such land or rent has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of such estate or interest in possession. R.S.O. 1897, c. 133, s. 6.

An administrator to claim as if he obtained the estate without interval after

8. For the purposes of this Act, an administrator claiming the estate or interest of the deceased person of whose property he has been appointed administrator, shall be deemed

to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. R.S.O. 1897, c. 133, s. 7.

death of deceased.
Imp. Act, 3-4
W. iv. c. 27,
s. 6.

9. No person shall be deemed to have been in possession of any land within the meaning of this Act, merely by reason of having made an entry thereon. R.S.O. 1897, c. 133, s. 8.

A mere entry not to be deemed possession.
Idem, s. 10.

10. No continual or other claim upon or near any land shall preserve any right of making an entry or distress, or of bringing an action. R.S.O. 1897, c. 133, s. 9.

No right to be preserved by continual claim.
Idem, s. 11.

11. No descent cast, discontinuance or warranty, which has happened or been made since the first day of July, 1834, or which may hereafter happen or be made, shall toll or defeat any right of entry or action for the recovery of land. R.S.O. 1897, c. 133, s. 10.

No descent, warranty, etc., to bar a right of entry or action.
Idem, s. 39.

12. Where any one or more of several persons entitled to any land or rent as coparceners, joint tenants or tenants in common have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land, or of the profits thereof, or of such rent, for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last mentioned person or persons, or any of them. R.S.O. 1897, c. 133, s. 11.

Possession of one coparcener, etc., not to be the possession of the others.
Idem, s. 12.

13. Where a relation of the persons entitled, as heirs, to the possession or receipt of the profits of any land, or to the receipt of any rent, enters into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the persons entitled as heirs. R.S.O. 1897, c. 133, s. 12.

Possession of relations not to be the possession of the heirs.
Idem, s. 13.

14. Where any acknowledgment in writing of the title of the person entitled to any land or rent has been given to him or to his agent, signed by the person in possession or in receipt of the profits of such land, or in the receipt of such rent, such possession or receipt of or by the person by whom such acknowledgment was given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment was given at the time of giving the same, and the right of such last mentioned person, or of any person claiming through him, to make an entry or distress or bring an action to recover such land or rent,

Acknowledgment in writing given to the person entitled or his agent, to be equivalent to possession or receipt of rent.
Idem, s. 14.

shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given. R.S.O. 1897, c. 133, s. 13.

Receipt of rent to be deemed receipt of profits.
Idem, s. 35.

15. The receipt of the rent payable by any lessee, shall, as against such lessee or any person claiming under him, but subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act. R.S.O. 1897, c. 133, s. 14.

At the end of the period of limitation the right of the party out of possession to be extinguished.
Idem, s. 34.

16. At the determination of the period limited by this Act to any person for making an entry or distress, or bringing any action, the right and title of such person to the land or rent, for the recovery whereof such entry, distress, or action respectively might have been made or brought within such period shall be extinguished. R.S.O. 1897, c. 133, s. 15.

Waste or vacant lands of Crown excepted.

17. Nothing in the foregoing sections shall apply to any waste or vacant lands of the Crown whether surveyed or not. R.S.O. 1897, c. 324, s. 43.

Arrears of Rent, and Interest.

No arrears of rent or interest to be recovered for more than six years.
Idem, s. 42.

18.—(1) No arrears of rent, or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, whether it is or is not charged upon land, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, or action, but within six years next after the same respectively has become due, or next after any acknowledgment in writing of the same has been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent. R.S.O. 1897, c. 133, s. 17.

(2) This section shall not apply to an action for redemption brought by a mortgagor or any person claiming under him. *New.*

Exception in favour of subsequent mortgagee when a prior mortgagee has been in possession.
Idem, s. 42.

19. Where any prior mortgagee or other incumbrancer has been in possession of any land, or in the receipt of the profits thereof, within one year next before an action is brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action the arrears of interest which have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt, although such time may have exceeded such term of six years. R.S.O. 1897, c. 133, s. 18.

Mortgages and Charges on Land.

20. Where a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring any action to redeem the mortgage, but within ten years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment in writing of the title of the mortgagor, or of his right to redemption, has been given to the mortgagor or to some person claiming his estate, or to the agent of such mortgagor or person, signed by the mortgagee, or the person claiming through him, and in such case no such action shall be brought, but within ten years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given. R.S.O. 1897, c. 133, s. 19.

Mortgagor to be barred at end of ten years from the time when the mortgagee took possession, or from the last written acknowledgment. Imp. Acts, 3-4 W. iv. c. 27, s. 28; and 37-38 V. c. 57, s. 7.

21. Where there are more mortgagors than one, or more persons than one claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons. R.S.O. 1897, c. 133, s. 20.

Acknowledgment to one of several mortgagors. Imp. Act, 3-4 W. iv. c. 27, s. 28.

22. Where there are more mortgagees than one, or more persons than one claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the person or persons so signing, and the person or persons entitled to any estate or estates, interest or in-rent by, from, or under him, or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent; and where such of the mortgagees or persons as have given such acknowledgment are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage. R.S.O. 1897, c. 133, s. 21.

Acknowledgment by one of several mortgagees. Idem, s. 28.

Mortgagee may enter or sue within ten years from last payment. Imp. Act, 7 W. iv. and 1 V. c. 28.

23. Any person entitled to or claiming under a mortgage of land, may make an entry or bring an action to recover such land, at any time within ten years next after the last payment of any part of the principal money or interest secured by such mortgage, although more than ten years have elapsed since the time at which the right to make such entry or bring such action first accrued. R.S.O. 1897, c. 133, s. 22.

Money charged upon land and legacies to be deemed satisfied at the end of ten years if no interest paid or acknowledgment given in writing in the meantime.

24.—(1) No action shall be brought to recover out of any land or rent any sum of money secured by any mortgage or lien, or otherwise charged upon or payable out of such land or rent, or to recover any legacy, whether it is or is not charged upon land, but within ten years next after a present right to receive the same accrued to some person capable of giving a discharge for, or release of the same, unless in the meantime some part of the principal money, or some interest thereon, has been paid, or some acknowledgment in writing of the right thereto signed by the person by whom the same is payable, or his agent, has been given to the person entitled thereto or his agent; and in such case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments if more than one was made or given. R.S.O. 1897, c. 133, s. 23; 5 Edw. VII. c. 13, s. 10.

Imp. Acts, 3-4 W. iv. c. 27, s. 40; and 37-38 V. c. 57, s. 8.

Execution against land to be a lien so long as in force.

(2) Notwithstanding the provisions of subsection 1, a lien or charge created by the placing of an execution or other process against lands in the hands of the sheriff or other officer to whom it is directed shall remain in force so long as such execution or other process remains in the hands of such sheriff or officer for execution and is kept alive by renewal or otherwise. 5 Edw. VII, c. 13, s. 10.

Time for recovering charges and arrears of interest not to be enlarged by express trusts for raising the same. Imp. Act, 37-38 V. c. 57, s. 10.

25. No action shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent, and secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable and so secured, or any damages in respect of such arrears, except within the time within which the same would be recoverable if there were not any such trust. R.S.O. 1897, c. 133, s. 24.

Dower.

Action of dower to be brought within ten years.

26. Subject to the provisions of section 24, no action of dower shall be brought but within ten years from the death of the husband of the dowress, notwithstanding any disability of the dowress or of any person claiming under her. R.S.O. 1897, c. 133, s. 25.

27. Where a dowress has, after the death of her husband, actual possession of the land of which she is dowable, either alone or with an heir or devisee of, or a person claiming by devolution from her husband, the period of ten years within which her action of dower is to be brought shall be computed from the time when such possession of the dowress ceased. R.S.O. 1897, c. 133, s. 26.

Time from which right to bring action of dower to be computed.

28. No arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action for a longer period than six years next before the commencement of such action. R.S.O. 1897, c. 133, s. 16.

No arrears of dower to be recovered for more than six years.

Imp. Act, 3-4 W. iv. c. 27, s. 41.

Estates Tail.

29. Where the right of a tenant in tail of any land or rent to make an entry or distress or to bring an action to recover the same, has been barred by reason of the same not having been made or brought within the period limited by this Act, no such entry, distress or action shall be made or brought by any person claiming any estate, interest or right which such tenant in tail might lawfully have barred. R.S.O. 1897, c. 133, s. 27.

Where period of limitation elapsed against a tenant in tail to be deemed to have elapsed against those whose rights he could have barred.

Imp. Act, 3-4 W. iv. c. 27, s. 21.

30. Where a tenant in tail of any land or rent entitled to recover the same has died before the expiration of the period applicable in such case for making an entry or distress or bringing an action to recover such land or rent, no person claiming any estate, interest or right which such tenant in tail might lawfully have barred, shall make an entry or distress or bring an action, to recover such land or rent, but within the period during which, if such tenant in tail had so long continued to live, he might have made such entry or distress or brought such action. R.S.O. 1897, c. 133, s. 28.

Term elapsed in such cases during the life of the tenant to be computed against those whose rights he could have barred.

Idem, s. 22.

31. Where a tenant in tail of any land or rent has made an assurance thereof, which does not operate to bar the estate or estates to take effect after or in defeasance of his estate tail, and any person is by virtue of such assurance, at the time of the execution thereof, or at any time afterwards, in possession or receipt of the profits of such land, or in the receipt of such rent, and the same person, or any other person, other than a person entitled to such possession or receipt in respect of an estate which has taken effect after or in defeasance of the estate tail, continues or is in such possession or receipt for the period of ten years next after the commencement of the time at which such assurance, if it had then been executed by such tenant in tail, or the person who would have been entitled to his estate tail if such assurance had not been executed, would, without the consent of any

In case of possession under an assurance by a tenant in tail, which does not bar the remainders, they shall be barred at the end of ten years after the period at which the assurance, if then executed, would have barred them. Imp. Acts, 3-4 W. iv. c. 27, s. 23; and 37-38 V. c. 57, s. 6.

other person, have operated to bar such estate or estates, then, at the expiration of such period of ten years, such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail. R.S.O. 1897, c. 133, s. 29.

Concealed Fraud.

In cases of fraud no time shall run whilst the fraud remains concealed. Imp. Act, 3-4 W. iv. c. 27, s. 26.

32. In every case of a concealed fraud, the right of any person to bring an action for the recovery of any land or rent of which he or any person through whom he claims may have been deprived by such fraud shall be deemed to have first accrued at and not before the time at which such fraud was or with reasonable diligence might have been first known or discovered. R.S.O. 1897, c. 133, s. 31.

Unless in the case of bona fide purchaser for value without notice. Idem, s. 26.

33. Nothing in the next preceding section shall enable any owner of land or rent to bring an action for the recovery of such land or rent, or for setting aside any conveyance thereof, on account of fraud against any purchaser in good faith for valuable consideration, who has not assisted in the commission of such fraud, and who, at the time that he made the purchase did not know, and had no reason to believe that any such fraud had been committed. R.S.O. 1897, c. 133, s. 32.

Prescription in Cases of Easements.

Certain claims not to be defeated by shewing only that the same enjoyed for less than 30 years. Imp. Act, 2-3 W. iv. c. 71, s. 1.

34. No claim which may be lawfully made at the common law, by custom, prescription or grant, to any profit or benefit to be taken or enjoyed from or upon any land of the Crown, or of any person, except such matters or things as are hereinafter specially provided for, and except rent and services, where such profit or benefit has been actually taken and enjoyed by any person claiming right thereto without interruption for the full period of thirty years, shall be defeated or destroyed by shewing only that such profit or benefit was first taken or enjoyed at any time prior to such period of thirty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; and when such profit or benefit has been so taken and enjoyed for the full period of sixty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was taken and enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1897, c. 133, s. 34.

Indefeasible if enjoyed over 60 years.

Right of way, or water not to be defeated by showing

35. No claim which may lawfully be made at the common law, by custom, prescription or grant, to any way or

other easement, or to any water-course, or the use of any water to be enjoyed, or derived upon, over, or from any land or water of the Crown or being the property of any person, when such way or other matter as herein last before mentioned has been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years shall be defeated or destroyed by shewing only that such way or other matter was first enjoyed at any time prior to the period of twenty years, but, nevertheless, such claim may be defeated in any other way by which the same is now liable to be defeated: and where such way or other matter as herein last before mentioned has been so enjoyed for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R.S.O. 1897, c. 133, s. 35.

only that it began more than 20 years prior. Idem, s. 2.

Indefeasible if enjoyed over 40 years.

36. Each of the respective periods of years in the next preceding two sections mentioned shall be deemed and taken to be the period next before some action wherein the claim or matter to which such period relates was or is brought into question; and no act or other matter shall be deemed an interruption within the meaning of those sections, unless the same has been submitted to or acquiesced in for one year after the person interrupted has had notice thereof, and of the person making or authorizing the same to be made. R.S.O. 1897, c. 133, s. 37.

How the periods shall be calculated, and what acts only shall be an interruption to the prescription. Idem, s. 4.

37. No person shall acquire a right by prescription to the access and use of light to or for any dwelling-house, workshop or other building. R.S.O. 1897, c. 133, s. 36.

Right to access and use of light by prescription abolished.

38. In the cases mentioned in and provided for by this Act, of claims to ways, water-courses, or other easements, no presumption shall be allowed or made in favour or support of any claim upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this Act as is applicable to the case and to the nature of the claim. R.S.O. 1897, c. 133, s. 39.

No presumption admissible on proof of enjoyment for a less period than prescribed by this Act. Idem, s. 6.

39. No easement in respect of wires or cables attached to property or buildings or passing through or carried over such property or buildings shall be deemed to have been acquired or shall hereafter be acquired by prescription or otherwise than by grant from the owner of such property or buildings. 4 Edw. VII. c. 10, s. 74.

Easements not acquired for telephone or telegraph wires.

DISABILITIES AND EXCEPTIONS.

1.—*In Cases of Land or Rent.*

In cases of infancy or lunacy at the time when the right of action accrues, then five years to be allowed from the termination of the disability, or previous death. Imp. Acts, 3-4 W. iv. c. 27, s. 16; 37-38 V. c. 57, s. 3.

40. If at the time at which the right of any person to make an entry or distress, or to bring an action to recover any land or rent, first accrues, as herein mentioned, such person is under any of the disabilities hereinafter mentioned (that is to say) infancy, idiocy, lunacy or unsoundness of mind, then such person, or the person claiming through him, notwithstanding that the period of ten years or five years (as the case may be) hereinbefore limited has expired, may make an entry or a distress, or bring an action, to recover such land or rent at any time within five years next after the time at which the person to whom such right first accrued ceased to be under any such disability, or died, whichever of those two events first happened. R.S.O. 1897, c. 133, s. 43.

Twenty years utmost allowance for disabilities. Imp. Acts, 3-4 W. iv. c. 27, s. 17; 37-38 V. c. 57, s. 5.

41. No entry, distress or action, shall be made or brought by any person, who, at the time at which his right to make any entry or distress, or to bring an action to recover any land or rent first accrued was under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within twenty years next after the time at which such right first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such twenty years, or although the term of five years from the time at which he ceased to be under any such disability, or died, may not have expired. R.S.O. 1897, c. 133, s. 44.

No further time to be allowed for a succession of disabilities. Imp. Act, 3-4 W. iv. c. 27, s. 18; 37-38 V. c. 57, s. 9.

42. Where any person is under any of the disabilities hereinbefore mentioned, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent first accrues, and departs this life without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover such land or rent beyond the period of ten years next after the right of such person to make an entry or distress, or to bring an action to recover such land or rent, first accrued or the period of five years next after the time at which such person died, shall be allowed by reason of any disability of any other person. R.S.O. 1897, c. 133, s. 45.

2.—*In Cases of Easements.*

Time during which a party could not act not to be computed against him.

43. The time during which any person otherwise capable of resisting any claim to any of the matters mentioned in sections 34 to 39, is an infant, idiot, lunatic, of unsound

mind, or tenant for life, or during which any action has been pending and has been diligently prosecuted, shall be excluded in the computation of the period in such sections mentioned, except only in cases where the right or claim is thereby declared to be absolute and indefeasible. R.S.O. 1897, c. 133, s. 40.

44. Where any land or water upon, over or from which any such way or other easement, water-course or use of water has been enjoyed or derived, has been held under or by virtue of any term of life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter as herein last before mentioned during the continuance of such term shall be excluded in the computation of the period of forty years mentioned in section 35 if the claim is, within three years next after the end, or sooner determination of such term, resisted by any person entitled to any reversion expectant on the determination thereof. R.S.O. 1897, c. 133, s. 41; 62 V. (2), c. 11, s. 16.

45. Nothing in sections 34 to 39 shall support or maintain any claim to any profit or benefit to be taken or enjoyed from or upon any land of the Crown, or to any way or other easement, or to any water-course or the use of any water to be enjoyed or derived upon, over or from any land or water of the Crown, unless such land, way, easement, water-course or other matter lies and is situate within the limits of some town or township, or other parcel or tract of land duly surveyed and laid out by authority of the Crown. R.S.O. 1897, c. 133, s. 42.

PART II.

TRUSTS AND TRUSTEES.

46. This Part shall apply to a trust created by an instrument or an Act of the Legislature heretofore or hereafter executed or passed. R.S.O. 1897, c. 129, s. 27 (3), (4).

47.—(1) In this section "trustee" shall include an executor, an administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee, and shall also include a joint trustee. R.S.O. 1897, c. 129, s. 27 (1), (2).

(2) In an action against a trustee or any person claiming through him, except where the claim is founded upon any fraud or fraudulent breach of trust to which the trustee was party or privy, or is to recover trust property or the

Imp. Act, 51- proceeds thereof, still retained by the trustee, or previously
52 V. c. 59, received by the trustee and converted to his use, the follow-
s. 8. ing provisions shall apply:—

- (a) All rights and privileges conferred by any statute of limitations shall be enjoyed in the like manner and to the like extent as they would have been enjoyed in such action if the trustee or person claiming through him had not been a trustee or person claiming through a trustee.
- (b) If the action is brought to recover money or other property, and is one to which no existing statute of limitations applies, the trustee or person claiming through him shall be entitled to the benefit of, and be at liberty to plead, the lapse of time as a bar to such action in the like manner and to the like extent as if the claim had been against him in an action or debt for money had and received; but so nevertheless that the statute shall run against a married woman entitled in possession for her separate use, whether with or without restraint upon anticipation, but shall not begin to run against any beneficiary unless and until the interest of such beneficiary becomes an interest in possession.
- (3) No beneficiary, as against whom there would be a good defence by virtue of this section, shall derive any greater or other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought the action, and this section had been pleaded.
- (4) This section shall apply only to actions commenced after the first day of January, 1892, and shall not deprive any executor or administrator of any right or defence to which he is entitled under any existing statute of limitations. R.S.O. 1897, c. 129, s. 32.

In case of express trust, the right shall not be deemed to have accrued until a conveyance to a purchaser. Imp. Act, 3-4 W. iv. c. 27, s. 25.

48.—(1) Where any land or rent is vested in a trustee upon any express trust, the right of the *cestui que trust*, or any person claiming through him to bring an action against the trustee or any person claiming through him, to recover such land or rent, shall be deemed to have first accrued, according to the meaning of this Act, at and not before the time at which such land or rent has been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and

any person claiming through him. R.S.O. 1897, c. 133, s. 30 (1).

(2) Subject to the provisions of the next preceding section no claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any statute of limitations. R.S.O. 1897, c. 133, s. 30 (2). Claim of
cestui que
trust against
trustee.

PART III.

PERSONAL ACTIONS.

49.—(1) The following actions shall be commenced with- Limitation of
time for com-
mencing par-
ticular actions.
in and not after the times respectively hereinafter mentioned :

(a) An action for rent, upon an indenture of demise;

(b) An action upon a bond, or other specialty, except upon a covenant contained in an indenture of mortgage made on or after the 1st day of July, 1894;

(c) An action upon a recognizance;

within twenty years after the cause of action arose;

(d) An action upon an award where the submission is not by specialty;

(e) An action for an escape;

(f) An action for money levied on execution;

(g) An action for trespass to goods or land, debt grounded upon any lending or contract without specialty, debt for arrears of rent, detinue, replevin, or upon the case other than for slander. On, or; R.S.O. 1897, c. 324, s. 38.

within six years after the cause of action arose; R.S.O. 1897, c. 72, s. 1 (1, a-f);

(h) An action for a penalty, damages, or a sum of money given by any statute to the Crown or the party aggrieved within two years after the cause of action arose; R.S.O. 1897, c. 72; s. 1 (1, g); 1 Edw. VII. c. 12, s. 9;

(i) An action upon the case for words, within two years after the words spoken;

(j) An action for assault, battery, wounding or imprisonment within four years after the cause of action arose. R.S.O. 1897, c. 324, s. 38.

(k) An action upon a covenant contained in an indenture of mortgage, made on or after the 1st day of July, 1894, within ten years after the cause of action arose; R.S.O. 1897, c. 72, s. 1 (1, h);

Actions for penalties.

(l) An action for a penalty imposed by any statute brought by any informer suing for himself alone, or for the Crown as well as himself, or by any person authorized to sue for the same, not being the person aggrieved, within one year after the cause of action arose. 4 Edw. VII. c. 10, s. 20.

Where time specially limited.

(2) Nothing in this section shall extend to any action where the time for bringing the action is by any statute specially limited. R.S.O. 1897, c. 72, s. 1 (2).

Actions of account, etc., to be commenced within six years.

50. Every action of account or for not accounting, or for such accounts as concern the trade of merchandise between merchant and merchant, their factors and servants, shall be commenced within six years after the cause of action arose; and no claim in respect of a matter which arose more than six years before the commencement of the action, shall be enforceable by action by reason only of some other matter of claim comprised in the same account, having arisen within six years next before the commencement of the action. R.S.O. 1897, c. 72, s. 2.

In case of disability of plaintiff.

51. Where a person entitled to bring any action mentioned in either of the next two preceding sections is at the time the cause of action accrues an infant, idiot, lunatic or of unsound mind, the period within which such action should be brought shall be reckoned from the date when such person became of full age or of sound mind. R.S.O. 1897, c. 72, s. 3.

Non-resident defendants.

52. If a person against whom any cause of action mentioned in sections 49 and 50 accrues is at such time out of Ontario, the person entitled to the cause of action may bring the action within such times as are before limited after the return of the absent person to Ontario. R.S.O. 1897, c. 72, s. 5 and c. 324, s. 40.

53.—(1) Where a person has any such cause of action against joint debtors or joint contractors he shall not be entitled to any time within which to commence such action against any one of them who was within Ontario at the time the cause of action accrued, by reason only that some other of them was, at the time the cause of action accrued, out of Ontario. R.S.O. 1897, c. 72, s. 6.

As to cases where some joint debtors have been within and some without Ontario.

(2) The person having such cause of action shall not be barred from commencing an action against a joint debtor or joint contractor who was out of Ontario at the time the cause of action accrued, after his return to Ontario, by reason only that judgment has been already recovered against a joint debtor or joint contractor who was at such time within Ontario. R.S.O. 1897, c. 72, s. 7.

Recovery against one joint debtor no bar to action against another who is absent.

Acknowledgments or Promises.

54. Where an acknowledgment in writing, signed by the principal party or his agent, is made by a person liable upon an indenture, specialty or recognizance, or where an acknowledgment is made by such person by part payment, or part satisfaction, on account of any principal or interest due on such indenture, specialty or recognizance, the person entitled may bring an action for the money remaining unpaid and so acknowledged to be due, within twenty years, or in the cases mentioned in clause (k) of subsection 1 of section 49 within ten years after such acknowledgment in writing, or part payment, or part satisfaction, or where the person entitled is at the time of the acknowledgment under disability, as aforesaid, or the person making the acknowledgment is, at the time of making the same out of Ontario, then within twenty years, or in the cases aforesaid within ten years, after the disability has ceased, or the person has returned, as the case may be. R.S.O. 1897, c. 72, s. 8.

Effect of written acknowledgment or part payment.

55.—(1) No acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take out of the operation of this Part, any case falling within its provisions respecting actions

Promise by words only not sufficient to take the case out of Part III.

(a) Of account and upon the case,

(b) On simple contract or of debt grounded upon any lending or contract without specialty, and

(c) Of debt for arrears of rent,

or to deprive any party of the benefit thereof, unless such acknowledgment or promise is made or contained by or in

some writing signed by the party chargeable thereby, or by his agent duly authorized to make such acknowledgment or promise. R.S.O. 1897, c. 146, s. 1.

Effect of
payment of
principal or
interest.

(2) Nothing in this section shall alter, take away or lessen the effect of any payment of any principal or interest by any person. 9 Geo. IV., Imp. c. 14, s. 1, *part*.

Case of two
or more joint
contractors,
obligors,
Covenantors.
or executors.

56. Where there are two or more joint debtors or joint contractors, or joint obligors or covenantors or executors or administrators of any debtor or contractor, no such joint debtor, joint contractor, joint obligor or covenantor or executor or administrator shall lose the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed, or by reason of any payment of any principal or interest made, by any other or others of them. R.S.O. 1897, c. 146, s. 2.

Judgment
where plaintiff
is barred as to
one or more
defendants,
but not as to
all.

57. In actions commenced against two or more such joint contractors, executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act, as to one or more of such joint debtors, joint contractors, or executors or administrators is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment, judgment shall be given for the plaintiff as to the defendant or defendants against whom he recovers, and for the other defendant or defendants against the plaintiff. R.S.O. 1897, c. 146, s. 3.

Endorsement,
etc., made by
the payee not
to take a
note, etc., out
of the statute.

58. No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or other writing, by or on behalf of the person to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of this Act. R.S.O. 1897, c. 146, s. 4.

Part III. to
apply to set-
off.

59. This Part shall apply to the case of any claim of the nature hereinbefore mentioned, alleged by way of set-off on the part of any defendant. R.S.O. 1897, c. 146, s. 5.

PART IV.

REPEAL.

Repeal.

60. Chapters 133, except section 3, and sections 1 to 5 of chapter 146 and sections 38 to 44 of chapter 324 of the Revised Statutes, 1897, and all amendments thereto are repealed.

No. 135.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting the Limitation of
Actions.

First Reading	day of	1910.
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act to restrain the Accumulation of the Profits
or Produce of Real or Personal Estate.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Accumulations Act.*" Short title.
R.S.O. 1897, c. 332, s. 1.

2.—(1) No person shall, by any deed, surrender, will, Certain direc-
tions for
accumulation
to be void.
codicil, or otherwise howsoever, settle or dispose of any real
or personal property so that the rents, issues, profits or pro-
duce thereof shall be wholly or partially accumulated for any
longer than one of the following terms, viz.:

(a) For the life of the grantor;

(b) For twenty-one years from the death of the grantor
or testator;

(c) For the period of minority of any person living, or
en ventre sa mere, at the death of the grantor, or
testator;

(d) For the period of minority of any person who,
under the instrument directing the accumulation,
would for the time being, if of full age, be en-
titled to the income, or rents, and profits, directed
to be accumulated.

(2) No accumulation for the purchase of land shall be Imp. Act.
55-56 Vict.,
c. 58.
directed for any longer period than that mentioned in the
preceding sub-section.

(3) Where an accumulation is directed otherwise than as Imp. Act.
39-40 Geo. 3,
c. 98, s. 1.
aforesaid, such direction shall be null and void, and the
rents, issues, profits and produce, of such property so directed
to be accumulated, shall, so long as the same shall be directed

to be accumulated contrary to the provisions of this Act, go to and be received by such person as would have been entitled thereto, if such accumulation had not been directed. R.S.O. 1897, c. 332, s. 2.

Nothing herein to extend to any provision for debts, portions for children, or for timber.

Idem, s. 2.

3. Nothing in this Act shall extend to any provision for payment of debts of any grantor, settlor, or devisor, or other person, or to any provision for raising portions for any child of any grantor, settlor, or devisor, or for any child of any person taking any interest under any such conveyance, settlement, or devise, or to any direction touching the produce of timber or wood upon any lands or tenements, but that all such provisions and directions shall and may be made and given as if this Act had not passed. R.S.O. 1897, c. 332, s. 3.

When restrictions shall take effect as to wills made before the passing of this Act.

Idem, s. 4.

4. The restrictions in this Act shall take effect and be in force with respect to wills and testaments made and executed before the 4th day of March, 1837, only in cases where the devisor or testator was living and of sound and disposing mind after the expiration of twelve calendar months from that day. R.S.O. 1897, c. 332, s. 4.

Repeal.

5. Chapter 332 of the Revised Statutes 1897 is repealed.

No. 136.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to restrain the Accumulation of the
Profits or Produce of Real or
Personal Estate.

First Reading	day of	1910.
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Mr. Foy.

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

An Act respecting Wills

SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 WILLS BEFORE 1ST JANUARY, 1874, ss. 3-6.
 WILLS AFTER 1ST JANUARY, 1874.
 PRELIMINARY, ss. 7-9.
 PROPERTY DISPOSABLE BY WILL, AND PERSONS WHO MAY DISPOSE BY WILL, ss. 10, 11.
 EXECUTION OF WILLS, ss. 12-15.
 Wills of soldiers and sailors, s. 14.
 Wills executed out of Ontario, s. 15.
 Witnesses being interested under the will not to invalidate, ss. 17-20.
 REVOCATION OF WILLS, ss. 21-23.
 OBLITERATIONS, INTERLINEATIONS, ETC., s. 24.
 REVIVAL, s. 25.
 CONSTRUCTION OF WILLS:
 Devise, etc., to operate upon

any interest remaining in testator, s. 26.
 Operation of wills from time of death of testator, s. 27.
 Lapsed devise to sink into residuary devise, s. 28.
 General devise what to include, ss. 29-31.
 Meaning of "heir" in a devise, s. 32.
 "Die without issue," meaning of, s. 33.
 General devise to trustees, what estate to pass, ss. 34, 35.
 Cases where devise does not lapse by death of a devisee, ss. 36, 37.
 Mortgage debts and charges primarily chargeable on land, s. 38.
 REPEAL, s. 39.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Wills Act.*" R.S.O. Short title. 1897, c. 128, s. 1.

2. In this Act

Interpreta-
tion.

(a) "Land" shall include messuages, and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties, or any of them, and any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and

any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency. R.S.O. 1897, c. 128, s. 2.

“Mortgage.”
Imp. Act, 30.
31 V. c. 69,
s. 2.

- (b) “Mortgage” shall include any lien for unpaid purchase money, and any charge, incumbrance, or obligation of any nature whatever upon any lands or tenements of a testator or intestate, and “mortgagee” shall have a meaning corresponding with that of mortgage;

“Personal estate.”

- (c) “Personal estate” shall include leasehold estates and other chattels real, and also money, shares of government and other funds, securities for money (not being real estate), debts, choses in action, rights, credits, goods, and all other property, except real estate, which by law devolves upon the executor or administrator, and any share or interest therein;

“Real estate”

- (d) “Real estate” shall include messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal, incorporeal or personal, and any undivided share thereof, and any estate, right, or interest (other than a chattel interest) therein;

“Will.”
Imp. Act, 1 V.
c. 26, s. 1.

- (e) “Will” shall include a testament, and a codicil, and an appointment by will, or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of *The Infants’ Act*, and any other testamentary disposition;. R.S.O. 1897, c. 128, s. 9.

R.S.O. c. 840,
s. 2.

WILLS BEFORE 1ST JANUARY, 1874.

Estate acquired after the making of a will may pass by the will where such intention is expressed.

3. Where a will made before, and not re-executed, republished or revived after the first day of January, 1874, by any person dying after the sixth day of March, 1834, contains a devise in any form of words of all such real estate as the testator dies seised or possessed of, or of any part or proportion thereof, such will shall be valid and effectual to pass any land acquired by the deviser after the making of

such will, in the same manner as if the title thereto had been acquired before the making thereof. R.S.O. 1897, c. 128, s. 3.

4. Where land is devised in any such will it shall be considered that the deviser intended to devise all such estate as he was seised of in the same land, whether in fee simple or otherwise, unless it appears upon the face of such will that he intended to devise only an estate for life, or other estate less than he was seised of at the time of making the will containing such devise. R.S.O. 1897, c. 128, s. 4.

A devise of land shall be taken to carry as large an estate as the testator had in the land, unless a contrary intention is expressed.

5. Any will affecting land executed after the sixth day of March, 1834, and before the first day of January, 1874, in the presence of and attested by two or more witnesses, shall have the same validity and effect as if executed in the presence of and attested by three witnesses; and it shall be sufficient if the witnesses subscribed their names in presence of each other, although their names were not subscribed in presence of the testator. R.S.O. 1897, c. 128, s. 5.

Witness need not subscribe in the presence of the testator.

6. After the fourth day of May, 1859, and before the first day of January, 1874, every married woman might, by devise or bequest executed in the presence of two or more witnesses, neither of whom was her husband, make any devise or bequest of her separate property, real or personal, or of any rights therein, whether such property was acquired before or after marriage, to or among her child or children issue of any marriage, and failing there being any issue, then to her husband, or as she might see fit, in the same manner as if she were sole and unmarried. R.S.O. 1897, c. 128, s. 6.

Will by married woman between 4th May, 1859, and 1st January, 1874.

As to wills of married women made after 1st January, 1874, see R.S.O. c. 163, s. 3.

WILLS AFTER 1ST JANUARY, 1874.

7. Unless herein otherwise expressly provided, the subsequent sections of this Act shall not extend to any will made before the first day of January, 1874; but every will re-executed or re-published, or revived by any codicil, shall for the purposes of those sections, be deemed to have been made at the time at which the same was so re-executed, re-published or revived. R.S.O. 1897, c. 128, s. 7.

Operation of succeeding sections.

Imp. Act, 1 V. c. 26, s. 34.

8. Sections 22, 23, 26, and 27 shall not apply to the will of any person who died before the first day of January, 1869, but shall apply to the will of every person who died since

Application of sections 22, 23, 26 and 27.

the thirty-first day of December, 1868, or who dies after the passing of this Act. R.S.O. 1897, c. 128, s. 8.

Power to dispose of all property.
Imp. Act, 1 V.
c. 26, s. 3.

Estates pur autre vie.

Contingent interests.

Rights of entry.

Property acquired after the will.

9. Subject to the provisions of *The Devolution of Estates Act*, and of *The Accumulations Act*, every person may devise, bequeath, or dispose of by will executed in manner herein-after mentioned, all real estate and personal estate to which he may be entitled, at the time of his death, and which, if not so devised, bequeathed, or disposed of, would devolve upon his heirs or upon his executor or administrator; and the power hereby given shall extend to estates *pur autre vie*, whether there is or is not any special occupant thereof, and whether the same are corporeal or incorporeal hereditaments; and also to all contingent, executory, or other future interests in any real estate or personal estate, whether the testator is or is not ascertained as the person or one of the persons in whom the same may become vested, and whether he is entitled thereto under the instrument by which the same were created, or under any disposition thereof by deed or will, and also to all rights of entry for conditions broken and other rights of entry, and also to such of the same estates, interests and rights respectively, and other real estate and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will. R.S.O. 1897, c. 128, s. 10.

Widow's right to dispose of crop.
20 Hy. 3,
St. of Mer-
ton) c. 2.

10. A widow may in like manner bequeath the crop of her ground as well of her dower as of other her real estate. R.S. O. 1897, c. 330, s. 8.

Wills by infants invalid.
Imp. Act, 1 V.
c. 26, s. 7.

11. No will made by any person under the age of twenty-one years shall be valid. R.S.O. 1897, c. 128, s. 11.

Execution.
Imp. Act, 1 V.
c. 26, s. 9.

Attestation.

12.—(1) No will shall be valid unless it is in writing, and executed in manner hereinafter mentioned; that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction; and such signature shall be made or acknowledged by the testator, in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator; but no form of attestation shall be necessary.

Signature.
Imp. Act 15-
16 V. c. 24,
s. 1.

(2) Every will, so far only as regards the position of the signature of the testator, or of the person so signing for him, shall be valid, within the meaning of this Act, if the signature is so placed, at, or after, or following or under, or beside, or opposite to the end of the will, that it is apparent on the face of the will that the testator intended to give effect by

such signature to the writing signed as his will; and no such will shall be affected by the circumstance that the signature does not follow or is not immediately after the foot or end of the will, or by the circumstance that a blank space intervenes between the concluding word of the will and the signature, or by the circumstance that the signature is placed among the words of the *testimonium* clause, or of the clause of attestation, or follows or is after or under the clause of attestation either with or without a blank space intervening, or follows, or is after, or under, or beside the names or one of the names of the subscribing witnesses, or by the circumstance that the signature is on a side, or page, or other portion of the paper or papers containing the will, whereon no clause or paragraph or disposing part of the will is written above the signature, or by the circumstance that there appears to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature; and the enumeration of the above circumstances shall not restrict the generality of the above enactment; but no signature shall be operative to give effect to any disposition, or direction which is underneath, or which follows it, nor shall it give effect to any disposition or direction inserted after the signature was made. R.S.O. 1897, c. 128, s. 12.

13. No appointment made by will, in exercise of any power, shall be valid, unless the same is executed in manner hereinbefore required; and every will executed in manner hereinbefore required, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it has been expressly required that a will made in exercise of such power shall be executed with some additional or other form of execution or solemnity. R.S.O. 1897, c. 128, s. 13.

Appointments by will how to be exercised. Imp. Act, 1 V. c. 26, s. 10.

14. Any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the passing of this Act. R.S.O. 1897, c. 128, s. 14.

Wills of persons of soldiers and sailors. Imp. Act, 1 V. c. 26, s. 11.

15. Every will executed in manner hereinbefore required shall be valid without any other publication thereof. R.S.O. 1897, c. 128, s. 15.

Publication unnecessary. Imp. Act, 1 V. c. 26, s. 13.

16. If any person who attests the execution of a will is, at the time of the execution thereof, or becomes at any time afterwards, incompetent to be admitted as a witness to prove the execution thereof, such will shall not on that account be invalid. R.S.O. 1897, c. 128, s. 16.

Will not invalid if witness incompetent. Imp. Act, 1 V. c. 26, s. 14.

Gifts, etc., to witness invalid.
Imp. Act, 1 V.
c. 26, s. 15.

17. If any person attests the execution of any will, to whom, or to whose wife or husband, any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any real estate or personal estate, other than and except charges and directions for the payment of any debt, is thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or such wife or husband, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will. R.S.O. 1897, c. 128, s. 17.

Creditors competent witnesses.
Imp. Act, 1 V.
c. 26, s. 16.

18. In case by any will any real estate or personal estate is charged with any debt, and any creditor, or the wife or husband of any creditor whose debt is so charged attests the execution of such will, such creditor, notwithstanding such charge, shall be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof. R.S.O. 1897, c. 128, s. 18.

Executor competent witness.
Imp. Act, 1 V.
c. 26, s. 17.

19. No person shall, on account of his being an executor of a will, be incompetent to be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof. R.S.O. 1897, c. 128, s. 19.

Wills executed out of Ontario when to be valid.

Imp. Act, 24 and 25 V.
c. 114.

20.—(1) Every will made out of Ontario by a British subject (whatever may be his domicile at the time of making the same or at the time of his death) shall as regards personal estate be held to be well executed for the purpose of being admitted to probate in Ontario, if the same was made according to the forms required either by the law of the place where the same was made, or by the law of the place where such person was domiciled when the same was made or by the law then in force in that part of His Majesty's Dominions where he had his domicile of origin.

Will of British subject made in Ontario wherever domiciled.

(2) Every will made within Ontario by a British subject whatever may be his domicile at the time of making the same or at the time of his death shall as regards personal estate be held to be well executed and shall be admitted to probate in Ontario if the same was made and executed according to the forms required by the law of Ontario.

Change of domicile not to revoke will.

(3) No will shall be held to be revoked or to have become invalid, nor shall the construction thereof be altered

by reason of any subsequent change of domicile of the person making the same.

(4) Nothing in this section shall invalidate any will as regards personal estate which would have been valid if this section had not been passed except as such will may be revoked or altered by any subsequent will made valid by this section.

Wills not to be invalidated by Act.

(5) This section, except subsection 2, shall extend only to wills made by persons dying after the 17th day of March, 1902, and subsection 2 shall extend only to wills made by persons dying after that date. 2 Edw. VII. c. 18, ss. 3-6.

Application to wills of persons dying after 17th March, 1902.

21.—(1) Every will made by any person dying on or after the 13th day of April, 1897, shall be revoked by the marriage of the testator, except in the following cases:—

Revocation by marriage. Imp. Act, 1 V. c. 26, s. 18.

(a) Where it is declared in the will that the same is made in contemplation of such marriage;

Exceptions.

(b) Where the wife or husband of the testator elects to take under the will, by an instrument in writing signed by the wife or husband and filed within one year after the testator's death in the office of the Surrogate Clerk at Toronto;

(c) Where the will is made in the exercise of a power of appointment and the real estate or personal estate thereby appointed would not in default of such appointment pass to the testator's heirs, executor or administrator, or the person entitled as the testator's next of kin under *The Statute of Distribution*.

R.S.O., c. 335.

(2) The will of any testator who died between the 31st day December, 1868, and the 13th day of April, 1897, shall be held to have been revoked by his subsequent marriage, unless such will was made under the circumstances set forth in clause (c). R.S.O. 1897, c. 128, s. 20.

22. No will shall be revoked by any presumption of an intention, on the ground of an alteration in circumstances. R.S.O. 1897, c. 128, s. 21. *See section 8 of this Act.*

No revocation by change in circumstances. Imp. Act, 1 V. c. 26, s. 19.

23. No will or any part thereof, shall be revoked otherwise than as aforesaid provided by section 21, or by another will executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required

How only will can be revoked. Imp. Act, 1 V. c. 26, s. 20.

to be executed, or by the burning, tearing, or otherwise destroying the same, by the testator, or by some person in his presence and by his direction, with the intention of revoking the same. R.S.O. 1897, c. 128, s. 22. *See section 8 of this Act.*

Obliterations,
interlineations,
etc.
Imp. Act, 1 V.
c. 26, s. 21.

24. No obliteration, interlineation or other alteration made in any will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the will before such alteration are not apparent, unless such alteration is executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses are made in the margin or in some other part of the will opposite or near to such alteration, or at the foot or end of, or opposite to, a memorandum referring to such alteration, and written at the end or in some other part of the will. R.S.O. 1897, c. 128, s. 23.

Revival.
Imp. Act, 1 V.
c. 26, s. 22.

25. No will, or any part thereof, which has been in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and shewing an intention to revive the same; and where any will which has been partly revoked, and afterwards wholly revoked, is revived, such revival shall not extend to so much thereof as was revoked before the revocation of the whole thereof, unless an intention to the contrary is shown. R.S.O. 1897, c. 128, s. 24.

No act as to
property
named in the
will to pre-
vent operation
of the will as
to any inter-
est left in
testator.
Imp. Act, 1 V.
c. 26, s. 23.

26. No conveyance or other act made or done subsequently to the execution of a will, of or relating to any real estate or personal estate therein comprised, except an act by which such will is revoked as aforesaid, shall prevent the operation of the will with respect to such estate, or interest in such real estate or personal estate, as the testator had power to dispose of by will at the time of his death. R.S.O. 1897, c. 128, s. 25. *See section 8 of this Act.*

Will to speak
from death.
Imp. Act, 1 V.
c. 26, s. 24.

27.—(1) Every will shall be construed, with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will.

Imp. Act,
56-57 V. c.
63, s. 3.

(2) This section shall apply to the will of a married woman made during coverture, whether she is or is not possessed of or entitled to any separate property at the time of making it, and such will shall not require to be re-exe-

cuted or re-published after the death of her husband. R.S.O. 1897, c. 128, s. 26. *See section 8 of this Act.*

28. Unless a contrary intention appears by the will, such real estate as is comprised or intended to be comprised in any devise in such will contained which fails or becomes void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such will. R.S.O. 1897, c. 128, s. 27.

Lapsed devise to sink into residuary devise.
Imp. Act, 1 V. c. 26, s. 25.

29. A devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner and any other general devise which would describe a leasehold estate, if the testator had no freehold estate which could be described by it, shall be construed to include his leasehold estates, or any of them to which such description will extend, as well as freehold estates, unless a contrary intention appears by the will. R.S.O. 1897, c. 128, s. 28.

Leaseholds, when they may pass under a general devise.
Imp. Act, 1 V. c. 26, s. 26.

30. A general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate or any real estate to which such description will extend, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will; and in like manner a bequest of the personal estate of the testator, or any bequest of personal estate described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description will extend, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will. R.S.O. 1897, c. 128, s. 29.

A general devise of realty or personality to include property over which testator has a general power of appointment.
Imp. Act, 1 V. c. 26, s. 27.

31. Where any real estate is devised to any person without any words of limitation, such devise shall, subject to *The Devolution of Estates Act*, be construed to pass the fee simple, or other the whole estate or interest, which the testator had power to dispose of by will, unless a contrary intention appears by the will. R.S.O. 1897, c. 128, s. 30.

General devise to pass whole estate in the land devised.
Imp. Act, 1 V. c. 26, s. 28.

32. Where any real estate is devised by any testator, dying on or after the 5th day of March, 1880, to the heir or heirs of such testator, or of any other person, and no con-

Rev. Stat. c. 127.

Meaning of "heir" in a devise of real estate.

trary or other intention is signified by the will, the words "heir" or "heirs" shall be construed to mean the person or persons to whom such real estate would descend under the law of Ontario in case of an intestacy. R.S.O. 1897, c. 128, s. 31.

Import of words "die without issue," or to that effect. Imp. Act, 1 V. c. 26, s. 29.

33. In any devise or bequest of real estate or personal estate, the words "die without issue," or "die without leaving issue," or "have no issue," or any other words which import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention appears by the will, by reason of such person having a prior estate tail, or of a preceding gift, being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise; but this Act shall not extend to cases where such words import if no issue described in a preceding gift be born, or if there be no issue who live to attain the age, or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue. R.S.O. 1897, c. 128, s. 32.

Proviso.

When devise to trustee or executor shall pass whole estate of testator. Imp. Act, 1 V. c. 26, s. 30.

34. Where any real estate is devised to a trustee or executor, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a definite term of years absolute or determinable, or an estate of freehold is thereby given to him expressly or by implication. R.S.O. 1897, c. 128, s. 33.

When devise to a trustee shall pass the whole estate beyond what is requisite for the trust. Imp. Act, 1 V. c. 26, s. 31.

35. Where any real estate is devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, is not given to any person for life, or such beneficial interest is given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall, subject to *The Devolution of Estates Act*, be construed to vest in such trustee the fee simple or other the whole legal estate which the testator had power to dispose of by will in such real estate, and not an estate determinable when the purposes of the trust are satisfied. R.S.O. 1897, c. 128, s. 34.

Rev. Stat. c. 127.

When devises of estate tail shall not lapse. Imp. Act, 1 V. c. 26, s. 32.

36. Where any person to whom any real estate is devised for an estate tail or an estate in *quasi* entail, dies in the lifetime of the testator, leaving issue who would be inheritable under such entail, and any such issue are living at the time of the death of the testator, such devise shall not lapse,

but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R.S.O. 1897, c. 128, s. 35.

37. Where any person, being a child or other issue of the testator, to whom any real estate or personal estate is devised or bequeathed for any estate or interest not determinable at or before the death of such person, dies in the lifetime of the testator, leaving issue, and any of the issue of such person are living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R.S.O. 1897, c. 128, s. 36.

Gifts to issue who leave issue on testator's death, shall not lapse. Imp. Act, 1 V. c. 26, s. 33.

38.—(1) Where any person has died since the 31st day of December, 1865, or hereafter dies seised of or entitled to any estate or interest in any real estate, which, at the time of his death, was or is charged with the payment of any sum of money by way of mortgage, and such person has not, by his will or deed or other document, signified any contrary or other intention, the heir or devisee to whom such real estate descends or is devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate, or any other real estate of such person; but the real estate so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage debts with which the same is charged, every part thereof according to its value bearing a proportionate part of the mortgage debts charged on the whole thereof. R.S.O. 1897, c. 128, s. 37.

Mortgage debts to be primarily chargeable on the lands. Imp. Act, 17-18 V. c. 113 (1).

(2) In the construction of a will to which this section relates, a general direction that the debts or that all the debts of the testator shall be paid out of his personal estate, or a charge or direction for the payment of debts upon or out of residuary real estate and personal estate or residuary real estate shall not be deemed to be a declaration of an intention contrary to or other than the rule in subsection 1 contained, unless such contrary or other intention is further declared by words expressly or by necessary implication referring to all or some of the testator's debts charged by way of mortgage on any part of his real estate. R.S.O. 1897, c. 128, s. 38. *Amended.*

Consequence of direction that testator's debts be paid out of personalty. Imp. Act, 30-31 V. c. 69, s. 1, and 40-41 V. c. 34, s. 1.

(3) Nothing herein shall affect or diminish any right of the mortgagee to obtain full payment or satisfaction of his mortgage debt, either out of the personal estate of the person so dying, or otherwise; and nothing herein shall affect the

Proviso.

rights of any person claiming under any will, deed, or document made before the first day of January, 1874. R.S.O. 1897, c. 128, s. 37 (2).

Repeal.

39. Chapter 128 and section 8 of chapter 330 of the Revised Statutes, 1897, and all amendments thereto are repealed.

No. 137.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Wills.

First Reading	day of	1910.
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Mr. Foy.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act respecting the Assurance of Estates Tail.

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INTERPRETATION, s. 2.

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MODE OF GIVING PROTECTOR'S
CONSENT, AND ITS EFFECT, ss.
27-30.DISPOSITION OF ENTAILED MONEY,
s. 31.

REPEAL, s. 32.

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of On-
tario, enacts as follows:—

1. This Act may be cited as "*The Estates Tail Act.*"

Short title.

2.—(1) In this Act,

Interpreta-
tion.

(a) "Actual tenant in tail" shall mean exclusively the tenant of an estate tail which has not been barred, and such tenant shall be deemed an actual tenant in tail, although the estate tail may have been divested or turned into a right;

"Actual ten-
ant in tail."

"Base fee."

(b) "Base fee" shall mean exclusively that estate in fee simple into which an estate tail is converted where the issue in tail are barred, but persons claiming estates by way of remainder or otherwise are not barred;

"Estate."

(c) "Estate" shall include an estate in equity as well as at law and any interest, charge, lien or incumbrance in, upon or affecting land; either at law or in equity, and any interest, charge, lien or incumbrance in, upon or affecting money subject to be invested in the purchase of land;

"Estate tail."

(d) "Estate tail" shall include a base fee into which an estate tail has been converted;

"Land."

(e) "Land" shall include messuages, lands, tenements, rents and hereditaments of any tenure and whether corporeal or incorporeal, and any undivided share thereof;

"Money subject to be invested in the purchase of land."

(f) "Money subject to be invested in the purchase of land" shall include money, whether raised or to be raised, and whether the amount thereof is or is not ascertained, and shall extend to stocks and funds, and real and other securities, the produce of which is directed to be invested in the purchase of land and the land to be purchased with such money or produce shall include land of any tenure out of Ontario, where such land is within the scope or meaning of the trust or power directing or authorizing the purchase;

"Tenant in tail."

(g) "Tenant in tail" shall include a person who, where an estate tail has been barred and converted into a base fee, would have been tenant of such estate tail if the same had not been barred;

"Tenant in tail entitled to a base fee."

(h) "Tenant in tail entitled to a base fee" shall mean a person entitled to a base fee, or to the ultimate beneficial interest in a base fee, and who, if the base fee had not been created, would have been actual tenant in tail.

Settlement.

(2) Every assurance already made or hereafter to be made whether by deed, will, Act of Parliament, of the Legislature, or otherwise, by which land heretofore has been or may hereafter be entailed, or agreed or directed to be entailed, shall be deemed a settlement.

(3) Every appointment made in exercise of any power contained in a settlement, or of any other power arising out of the power contained in a settlement, shall be considered as a part of such settlement, and the estate created by such appointment shall be considered as having been created by such settlement.

Appointment in exercise of a power under a settlement.

(4) Where such settlement is made by will, the time of the death of the testator shall be considered the time when such settlement was made. R.S.O. 1897, c. 122, s. 1.

Settlement by will to date from testator's death.

3. All warranties of land made or entered into by a tenant in tail thereof, shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination or in defeasance of the estate tail. R.S.O. 1897, c. 122, s. 2.

Estate tail and estates expectant thereon, not to be barred by warranty.

4. Every actual tenant in tail, whether in possession, remainder, contingency or otherwise, may dispose of, for an estate in fee simple absolute, or for any less estate, the land entailed, as against all persons claiming the land entailed by force of any estate tail vested in or which might be claimed by or which, but for some previous act, would have been vested in, or might have been claimed by the person making the disposition, at the time of his making the same, and also as against all persons, including His Majesty, whose estates are to take effect after the determination, or in defeasance of such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition is made, and the rights of all other persons except those against whom such disposition is by this Act authorized to be made. R.S.O. 1897, c. 122, s. 3.

Power to dispose of lands in fee simple or for a less estate, etc.

5. The power of disposition hereinbefore contained shall not extend to tenants of estates tail, who, by any Act, are restrained from barring their estates tail, or to tenants in tail after possibility of issue extinct. R.S.O. 1897, c. 122, s. 6.

Power of disposition not to extend to certain tenants in tail. 34 and 35 Hen. VIII. c. 20.

6. Where an estate tail has been barred, and converted into a base fee, the person who, if such estate tail had not been barred, would have been actual tenant in tail of land, may dispose of such land as against all persons, including His Majesty, whose estates are to take effect after the determination, or in defeasance of the base fee into which the estate tail has been converted, so as to enlarge the base fee into a fee simple absolute, saving always the right of all persons, in respect of estates prior to the estate tail, which has been converted into a base fee and the rights of all other persons except those against whom such disposition

Power to enlarge base fees saving the rights of certain persons.

is by this Act authorized to be made. R.S.O. 1897, c. 122, s. 7.

Issue inheritable not to bar expectancies.

7. Nothing in this Act shall enable any person to dispose of any land entailed in respect of any expectant interest which he may have as issue inheritable to any estate tail therein. R.S.O. 1897, c. 122, s. 8.

Extent of estate created by a tenant in tail by way of mortgage or for any other limited purpose.

8. If a tenant in tail makes a disposition of the land under this Act, by way of mortgage, or for any other limited purpose such disposition shall, to the extent of the estate thereby created, be an absolute bar to all persons as against whom such disposition is by this Act authorized to be made, notwithstanding any intention to the contrary expressed or implied in the deed by which the disposition is effected; but if the estate created by such disposition is only an estate *pur autre vie*, or for years absolute or determinable, or if, by a disposition under this Act by a tenant in tail an interest, charge, lien or incumbrance is created without a term of years absolute or determinable, or any greater estate for securing or raising the same, then such disposition shall be a bar only so far as may be necessary to give full effect to the mortgage, or to such other limited purpose, or to such interests, lien, charge or incumbrance, notwithstanding any intention to the contrary expressed or implied in the deed by which the disposition is effected. R.S.O. 1897, c. 122, s. 9.

PROTECTOR.

The owner of the first existing estate under settlement prior to an estate tail under the same settlement to be the protector of the settlement.

9. If at the time there is a tenant in tail of land under a settlement, and there is subsisting in the same land, or any part of it, under the same settlement, an estate for years, determinable on the dropping of a life or lives, or any greater estate, not being an estate for years, prior to the estate tail, then the person who is the owner of the prior estate, or the first of such prior estates, if more than one, then subsisting under the same settlement, or who would have been the owner if no absolute disposition thereof had been made (the first of such prior estates, if more than one, being for all the purposes of this Act, deemed the prior estate), shall be the protector of the settlement, so far as regards the land in which such prior estate is subsisting, and shall, for all the purposes of this Act, be deemed the owner of such prior estate, although the same may have been charged or incumbered, either by the owner thereof or by the settlor, or other wise howsoever, and although the whole of the rents and profits are exhausted, or are required for the payment of the charges and incumbrances on such prior estate, and although such prior estate may have been absolutely disposed of by

the owner thereof, or by or in consequence of the bankruptcy or insolvency of such owner, or by any other act or default of such owner; and an estate by the curtesy in respect of the estate tail, or of any prior estate created by the same settlement, shall be deemed a prior estate under the same settlement within the meaning of this section; and an estate by way of resulting use or trust to or for the settlor, shall be deemed an estate under the same settlement, within the meaning of this section. R.S.O. 1897, c. 122, s. 10.

10. Where two or more persons are owners, under a settlement within the meaning of this Act, of a prior estate, the sole owner of which estate, if there had been only one, would in respect thereof have been the protector of such settlement, each of such persons, in respect of such undivided share as he could dispose of, shall, for all the purposes of this Act, be deemed the owner of a prior estate, and shall in exclusion of the other or others of them be the sole protector of such settlement to the extent of such undivided share. R.S.O. 1897, c. 122, s. 11.

Each of two or more owners of a prior estate to be the sole protector to the extent of his share.

11. Where a married woman would, if single, be the protector of a settlement in respect of a prior estate, which is not thereby settled or agreed, or directed to be settled to her separate use, she and her husband together shall, in respect of such estate, be the protector of such settlement, and shall be deemed one owner; but if such prior estate has by such settlement been settled or agreed, or directed to be settled to her separate use, or is by *The Married Woman's Property Act* her separate estate, she alone in respect of such estate, shall be the protector of such settlement. R.S.O. 1897, c. 122, s. 12.

When a married woman alone shall be the protector, and when she and her husband together shall be protector.

12. Except in the case of a lease hereinafter provided for, where an estate is limited by a settlement, by way of confirmation, or where the settlement merely has the effect of restoring an estate, such estate shall, for the purpose of this Act, so far as regards the protector of the settlement be deemed an estate subsisting under such settlement. R.S.O. 1897, c. 122, s. 13.

As to estates confirmed or restored by settlement.

13. Where a lease at a rent is created or confirmed by a settlement, the person in whose favour such lease is created or confirmed, shall not, in respect thereof, be the protector of such settlement. R.S.O. 1897, c. 122, s. 14.

As to leases at rent created by settlement.

14. No woman in respect of her dower, and no bare trustee, heir, executor, administrator or assign, in respect of any estate taken by him as such shall be the protector of a settlement. R.S.O. 1897, c. 122, s. 15.

No bare trustee, tenant in dower, etc., to be protector except under sect. 19.

Who shall be the protector where the owner of the prior estate is, by the last two sections, excluded.

15. Where under a settlement there is more than one estate prior to an estate tail, and the person who is the owner within the meaning of this Act, of such prior estate, in respect of which, but for the last preceding two sections, or one of them, he would have been the protector of the settlement, is by virtue of such sections, or either of them, excluded from being the protector—then the person (if any) who, if such estate did not exist, would be the protector of the settlement, shall be such protector. R.S.O. 1897, c. 122, s. 16.

For protector in cases of dispositions before July, 1846, and of settlements before January 1834, see R.S.O. 1897, c. 122, ss. 17-19, not consolidated.

Power to any settlor to appoint protector.

16. Any settlor entailing land may appoint, by the settlement by which the land is entailed, any number of persons *in esse*, not exceeding three, to be protector of the settlement, in lieu of the person who would have been the protector if this section had not been enacted, and either for the whole or any part of the period for which such person might have continued protector; and, by means of a power to be inserted in such settlement, to perpetuate, during the whole or any part of such period, the protectorship of the settlement in any one person or number of persons *in esse*, whom the donee of the power thinks proper, by deed, to appoint protector of the settlement, in the place of any one person, or number of persons, who may die, or by deed relinquish his or their office of protector; and the person or persons so appointed shall, in case of there being no other person then protector of the settlement, be the protector, and shall, in case of there being any other person then protector of the settlement, be protector jointly with such other person; but the number of the persons to compose the protector by virtue or means of any such appointment, shall never exceed three. R.S.O. 1897, c. 122, s. 20.

Deeds appointing protectors to be registered.

17. (1) Every deed by which a protector is appointed under a power in a settlement, and every deed by which a protector relinquishes his office shall be void unless registered in the registry office of the registry division wherein the land referred to lies, within six months after the execution thereof.

(2) The person who, but for the next preceding section, would have been sole protector of the settlement, may be one of the persons to be appointed protector under that section, if the settlor thinks fit, and shall, unless otherwise directed by the settlor, act as sole protector, if the other persons constituting the protector have ceased to be so by death or relinquishment of the office by deed, and no other person has been appointed in their place. R.S.O. 1897, c. 122, s. 21.

18.—(1) If any person, protector of a settlement,

High Court to
be the protec-
tor where
protector
lunatic, etc.

(a) Is a lunatic, idiot, or of unsound mind, whether he has or has not been so found; or

(b) Is convicted of treason or felony; or

(c) Not being the owner of a prior estate under a settlement is an infant; or,

(d) If it is uncertain whether he is living or dead,

the High Court shall be the protector of the settlement, in lieu of such person.

(2) If any settlor entailing land declares, in the settlement by which the land is entailed, that the person who, as owner of a prior estate under such settlement, would be entitled to be protector of the settlement, shall not be the protector, and does not appoint any person to be protector in his stead, the High Court shall, as to the land in which the prior estate is subsisting, be the protector of the settlement during the continuance of such estate.

(3) If in any other case, there is subsisting under a settlement an estate prior to an estate tail under the same settlement, and such prior estate is sufficient to qualify the owner thereof to be protector of the settlement, and there happens at any time to be no protector of the settlement as to the land in which the prior estate is subsisting, the High Court shall, while there is no such protector, and the prior estate is subsisting, be the protector of the settlement as to such land. R.S.O. 1897, c. 122, s. 22.

19. If at the time when any person, actual tenant in tail of land under a settlement, but not entitled to the remainder or reversion in fee immediately expectant on the determination of his estate tail, is desirous of making under this Act a disposition of the land entailed, there is a protector of such settlement, then the consent of such protector shall be requisite to enable such actual tenant in tail to dispose of the land entailed to the full extent to which he is hereinbefore authorized to dispose of the same; but such actual tenant in tail may, without such consent, make a disposition under this Act of the land entailed, which shall be good against all persons who, by force of any estate tail vested in or which might be claimed by, or which but for some previous act or default would have been vested in or might have been claimed by, the person making the disposition at the time of his making the same, may claim the land entailed. R.S.O. 1897, c. 122, s. 23.

Where there
is a protector,
his consent
requisite to
enable an
actual tenant
in tail to
create a larger
estate than a
base fee.

Where a base fee and a protector; his consent requisite to the exercising of a power of disposition.

The protector to be subject to no control in the exercise of his power of consenting.

Certain rules of equity not to apply between the protector and a tenant in tail.

Avoidable estate by a tenant in tail in favour of a purchaser confirmed by a subsequent disposition of such tenant in tail under this Act but not against a purchaser for value without notice.

20. Where an estate tail has been converted into a base fee, so long as there is a protector of the settlement by which the estate tail was created, the consent of such protector shall be requisite to enable the person who would have been tenant of the estate tail if the same had not been barred, to exercise, as to the land in respect of which there is such protector, the power of disposition hereinbefore contained. R.S.O. 1897, c. 122, s. 24.

21. Any device, shift, or contrivance by which it is attempted to control the protector of a settlement in giving his consent, or to prevent him in any way from using his absolute discretion in regard to his consent, and also any agreement entered into by the protector of a settlement to withhold his consent, shall be void; and the protector of a settlement shall not be deemed to be a trustee in respect of his power of consent; and no Court shall control or interfere to restrain the exercise of his power of consent, or treat his giving consent as a breach of trust. R.S.O. 1897, c. 122, s. 25.

22. The rules of equity in relation to dealings and transactions between the donee of a power and any object of the power in whose favour the same may be exercised, shall not apply to dealings and transactions between the protector of a settlement and a tenant in tail under the same settlement, upon the occasion of the protector giving his consent to a disposition by a tenant in tail under this Act. R.S.O. 1897, c. 122, s. 26.

23.—(1) Where a tenant in tail of land under a settlement has created in such land, or any part thereof, a voidable estate in favour of a purchaser for valuable consideration and afterwards, by an assurance other than a lease not requiring registration under section 26, makes a disposition, under this Act, of the land in which such voidable estate has been created, or any part thereof, such disposition, whatever its object may be, and whatever may be the extent of the estate intended to be thereby created, shall, if made by the tenant in tail with the consent of the protector of the settlement, or by the tenant in tail alone, if there be no such protector, have the effect of confirming such voidable estate in the land thereby disposed of to its full extent as against all persons except those whose rights are saved by this Act.

(2) If, at the time of making such disposition, there is a protector of the settlement, and such protector does not consent to the disposition, and the tenant in tail is not without such consent capable under this Act of confirming the voidable estate to its full extent, then such disposition shall have

the effect of confirming such voidable estate so far as such tenant in tail would then be capable under this Act of confirming the same without such consent.

(3) If such disposition is made to a purchaser for valuable consideration, not having express notice of the voidable estate, the voidable estate shall not be confirmed as against such purchaser and the person claiming under him. R.S.O. 1897, c. 122, s. 27.

24. If a base fee in any land and the remainder or reversion in fee in the same land are united in the same person, and there is no intermediate estate between the base fee and the remainder or reversion, the base fee shall not merge, but shall be *ipso facto* enlarged into as large an estate as the tenant in tail, with the consent of the protector, if any, might have created by any disposition under this Act, if such remainder or reversion had been vested in any other person. R.S.O. 1897, c. 122, s. 28.

Base fees when united with the immediate reversions enlarged instead of being merged.

25.—(1) Every disposition of land under this Act by a tenant in tail thereof shall be effected by some one of the assurances, not being a will, by which such tenant in tail could have made the disposition if his estate were an estate at law in fee simple absolute, and no disposition by a tenant in tail shall be of any force, under this Act, unless made or evidenced by deed.

Tenant in tail may make a disposition by deed but not by will or contract. 44 V. c. 5.

(2) No disposition by a tenant in tail resting only in contract, either express or implied, or otherwise, and whether supported by a valuable or meritorious consideration or not, shall be of any force, under this Act, notwithstanding such disposition is made or evidenced by deed. R.S.O. 1907, c. 122, s. 29.

(See *The Law and Property Transfer Act, sec. 5 (2).*)

26. No assurance by which any disposition of land is effected under this Act by a tenant in tail thereof, except a lease for any term not exceeding 21 years, to commence twelve months from the date of such lease when such a lease is at rack-rent or not less than five-sixth parts of rack-rent, and except a lease made under the powers conferred by section 42 of *The Settled Estates Act*, shall have any operation under this Act unless it is registered in the registry office of the registry division wherein the land referred to lies within six months after the execution thereof. R.S.O. 1897, c. 122, s. 30.

Assurances by a tenant in tail, other than certain leases to be inoperative unless registered within six months.

27.—(1) The consent of a protector of a settlement to the disposition under this Act of a tenant in tail shall be

Consent of protector to be at same time or previous to assurance.

given either by the same assurance by which the disposition is effected, or by a deed distinct from the assurance, and executed either on or at any time before the day on which the assurance is made, otherwise the consent shall be void. R.S.O. 1897, c. 122, s. 31.

If by distinct deed, to be deemed unqualified unless otherwise expressed.

(2) If the protector of a settlement gives his consent to the disposition of a tenant in tail by a distinct deed, it shall be considered that such protector has given an absolute and unqualified consent, unless in such deed he refers to the particular assurance by which the disposition is effected, and confines his consent to the disposition thereby made. R.S.O. 1897, c. 122, s. 32.

Protector not to revoke his consent.

(3) The protector of a settlement, who, under this Act, has given his consent to the disposition of a tenant in tail, shall not revoke such consent. R.S.O. 1897, c. 122, s. 33.

A married woman protector.

(4) A married woman, being, either alone or jointly with her husband, protector of a settlement, may under this Act, in the same manner as of she were a *feme sole*, give her consent to the disposition of a tenant in tail. R.S.O. 1897, c. 122, s. 34.

Consent by distinct deed void, unless registered with or before assurance.

(5) The consent of the protector of a settlement to the disposition of a tenant in tail shall, if given by a deed distinct from the assurance by which the disposition is effected, be void, unless such deed is registered in the registry office of the registry division wherein the land referred to lies, either at or before the time of the registration of the assurance. R.S.O. 1897, c. 122, s. 35.

Equitable jurisdiction of the Courts excluded from giving any effect to dispositions in tail, etc.

28.—(1) In the case of a disposition of land under this Act by the tenant in tail thereof, and in the case of a consent by the protector of a settlement to such a disposition, the equitable jurisdiction of the Courts in regard to the specific performance of contracts and the supplying of defects in the execution, the powers of disposition given by this Act to tenants in tail, or the powers of consent given by this Act to protectors of settlements, and the supplying under any circumstances of the want of execution of such powers of disposition and consent respectively, and in regard to giving effect in any other manner to any act or deed by a tenant in tail or protector of a settlement, which before the passing of *The Administration of Justice Act* of 1873, would not, in a Court of Law, be an effectual disposition or consent within the meaning of this Act shall be altogether excluded, either on the behalf of a person claiming for a valuable or meritorious consideration or otherwise.

(2) No disposition of land under this Act by a tenant in tail thereof in Equity, and no consent by a protector of a settlement to such a disposition, shall be of any force, unless such disposition or consent would have been, in case of an estate tail at Law, before *The Administration of Justice Act, 1873*, an effectual disposition or consent within the meaning of this Act in a Court of Law. R.S.O. 1897, c. 122, s. 36.

29. Where the High Court is the protector of a settlement, such Court, while protector of the settlement, shall, on motion or petition in a summary way by a tenant in tail under such settlement, have full power to consent to a disposition, under this Act, by such tenant in tail; and the disposition to be made by such tenant in tail upon such motion or petition, shall be such as may be approved of by the Court, and the Court may make such orders in the matter as may be thought necessary; and if the Court, in lieu of any person is protector of a settlement, and there is another person protector of the same settlement jointly with such first mentioned person, the disposition by the tenant in tail, though approved of by the Court, shall not be valid, unless such other person, being protector, consents thereto in the manner in which the consent of the protector is by this Act required to be given. R.S.O. 1897, c. 122, s. 37.

When the High Court may consent to a disposition by a tenant in tail, and make such orders as are thought necessary.

30. Where the High Court is the protector of a settlement, no document or instrument, as evidence of the consent of such protector to the disposition of a tenant in tail under such settlement, shall be requisite beyond the order in obedience to which the disposition is made. R.S.O. 1897, c. 122, s. 38.

Order of the High Court to be evidence of consent.

31. Land to be sold, whether freehold or leasehold, or of any other tenure, where the money arising from the sale thereof is subject to be invested in the purchase of land to be settled, so that any person, if the land were purchased, would have an estate tail therein, and also money subject to be invested in the purchase of land to be settled, so that any person, if the land were purchased, would have an estate tail therein, shall, for all the purposes of this Act, be treated as the land to be purchased, and be considered subject to the same estates as the land to be purchased would, if purchased, have been actually subject to; and all the previous sections in this Act, so far as circumstances will admit, shall, in the case of the land to be so sold, apply to such land in the same manner as if the land to be purchased with the money to arise from the sale were directed to be freehold, and were actually purchased and settled; and shall, in the case of money subject to be invested in the purchase of land to be so

Mode of disposition of money subject to be invested in lands to be entailed.

settled, apply to such money in the same manner as if such money were directed to be laid out in the purchase of freehold land, and such land were actually purchased and settled; except that, where under this section a disposition is to be made of leasehold land for years absolute or determinable, so circumstanced, or of money so circumstanced, such leasehold land or money shall, as to the person in whose favour or for whose benefit the disposition is made, be treated as personal estate, and the assurance by which the disposition of such leasehold land or money is effected shall be an assignment by deed, which shall have no operation under this Act unless registered in the registry office of the registry division in which the land therein referred to lies within six months after the execution thereof. R.S.O. 1897, c. 122, s. 39.

Repeal.

32. Chapter 122 of the Revised Statutes, 1897, except sections, 17, 18 and 19, and sections 34 and 35 of chapter 330 of the said Revised Statutes, and all amendments to the said chapter 122 are repealed.

No. 138.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting the Assurance of
Estates Tail.

First Reading	day of	1910.
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. Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act for Quieting Titles to Real Estate.

SHORT TITLE, s. 1.

APPLICATION TO QUIET TITLES:

By whom may be made, ss. 2-4.

Form of, s. 5.

Evidence in support of, ss. 6-11.

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QUIETING TITLES IN ACTIONS FOR SPECIFIC PERFORMANCE WHERE VENDOR IS TO HAVE AN INDEFEASIBLE TITLE, s. 29.

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Certificates obtained by fraud, s. 40.

Inspector of Titles, ss. 41-43.

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RULES UNDER THIS ACT, s. 45.

POWERS OF JUDGE OR REFEREE, s. 46.

GENERAL RULES, s. 47.

REPEAL, s. 48.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Quieting Titles Act.*" Short title. R.S.O. 1897, c. 135, s. 1.

2. An owner of an estate in fee simple in land or a trustee for the sale of the fee simple shall be entitled to have his title judicially investigated and the validity thereof ascertained and declared, whether he has the legal estate or not, and whether his title is or is not subject to any charge or incumbrance. R.S.O. 1897, c. 135, s. 2.

Owners, etc., in fee simple may obtain judicial investigation of title.

In case of any other estate; investigation to be discretionary with the Judge.

3. Any other person who has any estate or interest in land may apply for the investigation of his title and a declaration of the validity thereof; but it shall be in the discretion of the Judge before whom the proceedings are taken to grant or refuse the application; and such discretion may be invoked and exercised at any stage of the proceedings, and the decision of the Judge in exercising such discretion shall be subject to appeal. R.S.O. 1897, c. 135, s. 3.

Attorney-General may apply to quiet title to Crown Lands.

4. His Majesty's Attorney-General for Canada or His Majesty's Attorney-General for Ontario may apply for an investigation of the title of the Crown to any land and a declaration of the validity thereof, and the application may be made by information instead of petition, but in other respects the practice and procedure shall be the same as in ordinary cases. R.S.O. 1897, c. 135, s. 4.

Procedure.

Form of application and to whom.

5. Every application shall be made to the High Court or a Judge thereof and, subject to the provisions of section 4, shall be by petition, Form 1. R.S.O. 1897, c. 135, s. 5.

How the application must be supported.

6. The application shall be supported by the following particulars:

Title deeds.

(a) The title deeds (if any) and evidences of title in the possession or power of the applicant; R.S.O. 1897, c. 135, s. 7, par. 1.

Registered instruments.

(b) Certified copies of all registered instruments, or registered memorials of instruments, affecting the land, or of all since the last judicial certificate, if any, under this Act, up to the time of the granting of the certificate of title; R.S.O. 1897, c. 135, s. 7, par. 2; 6 Edw. VII. c. 19, s. 19 (2).

Registrar's certificate.

(c) An abstract of the title certified by the registrar of the registry division in which the land lies, unless the same be dispensed with in whole or in part;

Statement of facts.

(d) A concise statement of such facts as are necessary to make out the title, which do not appear in the produced documents; but no abstract of produced documents shall be required except on special grounds;

Proof of facts.

(e) Proof of any fact which is required to be proved in order to make out the title, and which is not established by the produced documents, unless the Judge dispenses with such proof until a future stage of the investigation;

(f) An affidavit or deposition by the person whose title is to be investigated and a certificate of his counsel or solicitor, to the effect hereinafter mentioned, unless the Judge, for special reason, dispenses therewith; Affidavit and certificate of counsel, etc.

(g) A schedule of the particulars produced under this section. R.S.O. 1897, c. 135, s. 7, pars. 3-7. Schedule of particulars produced.

7.—(1) The affidavit or deposition of the person whose title is to be investigated shall state that to the best of his knowledge and belief he is the owner of the estate or interest claimed by the petitioner, subject only to the charges and incumbrances set forth in the petition or in a schedule thereto, or that there is no charge or incumbrance affecting the land; that the deeds and evidences of title which he produces, and of which a list is contained in the schedule produced under the next preceding section, are all the title deeds and evidences of title relating to the land in his possession or power, and that he is not aware of the existence of any claim adverse to or inconsistent with his own to any part of the land or to any interest therein; or, if he is aware of such adverse claim, he shall set forth every such adverse claim, and shall depose that he is not aware of any, except what he sets forth. What the affidavit or deposition of the applicant must state.

(2) The affidavit or deposition shall also set forth whether any one is in possession of the land and under what claim, right or title; and shall state that to the best of the deponent's knowledge, information and belief, the affidavit or deposition and the other papers produced therewith fully and fairly disclose all facts material to the title claimed by the petitioner, and all contracts and dealings which affect the same or any part thereof or give any right as against him. As to adverse claims of possession, etc. As to petitioner's possession and other material facts.

(3) The affidavit or deposition may be dispensed with, or may be made by some other person instead of the person whose title is to be investigated, or an affidavit or deposition as to part may be made by one person, and as to part by another, in the discretion of the Judge to whom the application is made; and in such case the affidavit shall be modified accordingly. R.S.O. 1897, c. 135, s. 8. In certain cases it may be dispensed with or made by another person.

8. The certificate of the counsel or solicitor shall state that he has investigated the title, and believes the petitioner to be the owner of the estate which he claims in the land, subject only to any charge or incumbrance set forth in the petition or in the schedule thereto, or that he so believes, subject to any condition, qualification or exemption set forth in the certificate; and that he has conferred with the deponent on the subject of the various matters set forth in What the certificate of counsel or solicitor must state.

the affidavit or deposition referred to in the next preceding two sections, and believes the affidavit or deposition to be true. R.S.O. 1897, c. 135, s. 9.

On what evidence Judge may proceed.

9.—(1) The Judge in investigating the title may receive and act upon any evidence that is received by the High Court on a question of title, and any evidence which the practice of conveyancers authorizes to be received on an investigation of a title out of Court; or any other evidence, whether the same is or is not receivable or sufficient in point of strict law or according to the practice of conveyancers, if the same satisfies the Judge of the truth of the facts intended to be established thereby.

Evidence in proceedings to quiet titles. Rev. Stat. c. 134.

(2) It shall not be necessary to produce any evidence which by *The Vendors and Purchasers Act* is dispensed with as between vendor and purchaser, or to produce or account for the originals of any registered deeds, documents or instruments, unless the Judge otherwise directs. R.S.O. 1897, c. 135, s. 10.

Form of proofs.

(3) The proof may be by affidavit or certificate; or may be given orally; or in any other manner or form satisfactory to the Judge. R.S.O. 1897, c. 125, s. 11.

Taxes must have been paid except for current year.

10. Before a certificate of title is granted satisfactory evidence shall be given by certificate, affidavit or otherwise, that all taxes, rates and assessments for which the land is liable have been paid, or that all, except those for the current year, have been paid. R.S.O. 1897, c. 135, s. 12.

Further proof if Judge not satisfied.

11. If the Judge is not satisfied with the evidence of title produced in the first instance he shall give a reasonable opportunity to produce further evidence or to remove defects in the evidence produced. R.S.O. 1897, c. 135, s. 13.

Judge to order notice to be published.

12.—(1) Except as hereinafter provided, before a certificate of title is granted or a conveyance is made under this Act, the Judge shall direct to be published in the *Ontario Gazette*, and if he sees fit in one or more newspapers, and in such form; and for such period as he deems expedient, a notice either of the application having been made, or of the order or decision of the Judge thereon, and the notice shall state the time within which adverse claims may be filed; and the certificate or conveyance shall not be signed or executed until after the expiration of at least four weeks from the first publication of such notice, or such other period as the Judge may appoint.

(2) Where the value of the land is proved to the satisfaction of the Judge to be not more than \$3,000, he may dispense with the publication of the notice and in lieu thereof may direct that for such period as he may think fit a printed or type-written notice of the application, or of the order or decision of the Judge thereon, be posted up in one or more conspicuous places on the land, and in such other place, if any, as he may think fit; and the certificate or conveyance shall not be signed or executed until the period limited by such notice for filing adverse claims shall have expired. R.S.O. 1897, c. 135, s. 14.

Notice of application where land is valued at not more than \$3,000.

13. Where the Judge is satisfied respecting the title, and considers that the certificate of title can safely be granted or the conveyance can be safely executed without any other notice of application than the published or posted notice, he may grant the certificate or direct the execution of the conveyance. R.S.O. 1897, c. 135, s. 15.

Judge may grant certificate without further notice.

14. Where it appears that there is any claim adverse to or inconsistent with that of the petitioner to or in respect of any part of the land, the Judge shall direct such notice as he deems necessary to be mailed to or served on the adverse claimant, his agent or solicitor. R.S.O. 1897, c. 135, s. 16.

Notice to adverse claimant.

15. Before granting the certificate or directing the execution of the conveyance the Judge may require any further publication to take place, or any other notice to be mailed or served which he deems necessary. R.S.O. 1897, c. 135, s. 17.

Further publication or service of notice.

16.—(1) Any person having an adverse claim, or a claim not recognized in the petition may at any time before the certificate is granted or the conveyance is executed, file and serve on the petitioner, his solicitor or agent, a statement of his claim, Form 2.

Adverse claimants to file statements.

(2) The claim shall be verified by an affidavit to be filed therewith. R.S.O. 1897, c. 135, s. 18.

Verification.

17. In case of a contest, the Judge may either decide the question of title on the evidence before him, or may refer the same or any matter involved therein to a Divisional Court, or may direct any mode of investigation which he deems expedient, and may defer granting the certificate or directing the execution of the conveyance. R.S.O. 1897, c. 135, s. 19.

In case of contest, Judge may decide or refer the case.

18. The Judge may at any stage of the proceeding, order security for costs to be given by the petitioner, or by any person making an adverse claim. R.S.O. 1897, c. 135, s. 20.

Security for costs.

Payment of
costs.

19. The Judge may order costs either as between party and party, or as between solicitor and client, to be paid by or to any party to any proceeding, and may give directions as to the fund out of which any costs shall be paid. R.S.O. 1897, c. 135, s. 21.

Withdrawal of
application.

20. The petitioner may by leave of the Judge withdraw his application at any time before final adjudication, on payment of all costs incurred in the investigation, either by himself or by any adverse claimant. R.S.O. 1897, c. 135, s. 22.

Petition may
be referred to
Master or
counsel.

21. Subject to Rules of Court, the Judge may refer a petition or any question arising in the course of any proceeding thereon to any referee of titles or other officer of the Court, or to counsel named by the Judge, who shall proceed as the Judge himself should do, had the reference not been made, and shall have all the powers of the Judge, except the power to grant the certificate or to direct the execution of the conveyance. R.S.O. 1897, c. 135, s. 23.

Claims of title
to be pre-
sumed to be
made with
certain
exceptions.

22.—(1) Every claim of title under this Act shall be presumed to be subject to the following exceptions and qualifications, unless the petition expressly states the contrary:

- (a) The reservations (if any) contained in the original grant from the Crown;
- (b) Any municipal charges, rates or assessments theretofore imposed for local improvements, and not yet due and payable;
- (c) Any title or lien which, by possession or improvements or other means, the owner or person interested in any adjoining land has acquired to or in respect of the land;
- (d) Any lease or agreement for a lease, for a period yet to run, not exceeding three years, where there is actual occupation under the same;
- (e) Any public highway, right of way, water-course and right of water, and other easement;
- (f) Any right of the wife or husband of the petitioner to dower or curtesy.

But claim may
be without
exceptions.

(2) If the petitioner desires the certificate to declare the title to be free from such exceptions or qualifications, or any of them, the petition shall so state, and the investiga-

tion shall proceed accordingly, but this subsection shall not apply to the exception or qualification as to a public highway. R.S.O. 1897, c. 135, s. 25. One certificate or several.

23. The Judge may give one certificate of title comprising all the land mentioned in the petition, or may give separate certificates as to separate parts of the land. R.S.O. 1897, c. 135, s. 26. Form of certificate of title.

24. The certificate of title, Form 3, shall be under the seal of the Court and shall be signed by a Judge and, where the proceedings on the petition are conducted in Toronto, by the Referee of Titles and in other cases by the Inspector of Titles and shall also be signed by the Clerk of Records and Writs of the High Court, and the same and the schedule (if any) thereto or a duplicate or counterpart of the same shall be registered in full both in the High Court and in the registry office of the registry division where the land lies, without any further proof thereof. R.S.O. 1897, c. 135, s. 27; 6 Edw. VII. c. 19, s. 19 (3).

25. A certificate of the registration in the High Court may be endorsed on the certificate of title, or on any counterpart or certified copy thereof, thus: Registration of certificate.

“Registered in	19 ,	Book
Page		
	A.H.,	

Clerk of Records and Writs (*or as the case may be*).

and a memorandum or certificate so signed shall be evidence of the registration mentioned therein. R.S.O. 1897, c. 135, s. 28.

26. The certificate of title sealed, signed and registered as required by section 24 shall be conclusive and the title therein mentioned shall be deemed absolute and indefeasible on and from the date of the certificate, as regards His Majesty and all persons whomsoever, subject only to any charges or incumbrances, exceptions or qualifications mentioned therein or in the schedule thereto, and shall be conclusive evidence that every application, notice, publication, proceeding, consent and act which ought to have been made, given and done before the granting of the certificate, has been made, given and done by the proper person. R.S.O. 1897, c. 135, s. 29. Effect of certificate of title.

27. After a certificate of title is registered, a copy thereof purporting to be signed and certified as a copy by the Clerk of Records and Writs, or by the Registrar of the registry Certified copy of certificate to be evidence.

division in which the land lies, shall be admissible evidence of the certificate for all purposes without further evidence of such copy, and without accounting for the non-production of the certificate. R.S.O. 1897, c. 135, s. 30.

Conveyance
by the Court
in case of sale.

28. In case of a sale by the High Court the Court may investigate the title with a view to granting an indefeasible title, and in that case, a conveyance, Form 4, executed to the purchaser, under the seal of the Court and purporting to be under the authority of this Act, shall have the same effect as a certificate. R.S.O. 1897, c. 135, s. 31.

Where an in-
defeasible
title is con-
tracted for.

29. Where judgment is given for the specific performance of a contract for the sale of land and it is provided by the contract that the vendor shall give an indefeasible title, the Court may make the like investigation, and the conveyance may be according to Form 4. R.S.O. 1897, c. 135, s. 32.

JUDICIAL INVESTIGATION OF PARTICULAR FACTS AFFECTING TITLES.

Right to judi-
cial investiga-
tion of some
fact which
may affect a
title.

30. Where a person domiciled or claiming land in Ontario desires to establish that he is the legitimate child of his parents, or that the marriage of his father or mother or of his grandfather and grandmother was a valid marriage, or that his own marriage was a valid marriage, or that he is the heir or one of the heirs of any person deceased, or that he is a natural born subject of His Majesty, he may, if the Court thinks fit, have any of such matters judicially investigated and declared. R.S.O. 1897, c. 135, s. 33.

Application.

How the peti-
tion must be
supported.

31.—(1) The application shall be by petition supported by an affidavit of the petitioner verifying the statements of the petition, and stating that his claim is not disputed or questioned by any person; or, if his claim is to his knowledge disputed or questioned, the facts in relation to such dispute or question, and that he is not aware of any dispute or question except what he has set forth, and stating such other facts as may satisfy the Court of the propriety of proceeding with the investigation. R.S.O. 1897, c. 135, ss. 34 and 35.

Investigation,
proof, etc., in
such case.

(2) The proceedings upon the petition shall be the same as nearly as may be as in cases under section 2, and the certificate granted on the investigation shall be registered in the same way, and may be proved by the like evidence, as in the case of a certificate granted under section 13. R.S.O. 1897, c. 135, s. 36.

(3) The certificate when registered shall be conclusive and indefeasible in favour of the person to whom the same was granted and all persons claiming by, from, through or under him, and shall be *prima facie* evidence in favour of all other persons as against all persons of the truth of the fact therein declared. R.S.O. 1897, c. 135, s. 37.

Effect of certificate.

32.—(1) After a certificate is granted or a conveyance is executed any person aggrieved thereby may, on petition, and after satisfactorily accounting for his delay, by leave of the Court or a Judge, have the title or claim re-investigated on such terms as may be deemed just. R.S.O. 1897, c. 135, s. 41.

Re-investigation at the instance of any party aggrieved.

(2) A certificate of the presentation of the petition shall be registered in the proper registry office.

(3) No proceeding on such petition shall affect the title of any person who, after the date of the certificate or conveyance under this Act and before the registration of the certificate of the presentation of the petition, has acquired, by sale, mortgage or contract, for valuable consideration, any estate or interest in the land described in the certificate or conveyance or, if the certificate was granted under section 31, in any land or other property, the title to which was derived from, through or under the person named in the certificate, in the character which is thereby declared to belong to him. R.S.O. 1897, c. 135, s. 42.

But those who have purchased, etc., in the meantime not to be affected.

APPEALS.

33. An appeal shall lie from an order or decision of a Judge under this Act to a Divisional Court, or to the Court of Appeal, and from the order or decision of the Divisional Court to the Court of Appeal in the same manner and subject to the same restrictions as in the case of an appeal from a judgment or order of the High Court in an action. R.S.O. 1897, c. 135, s. 38.

Appeals.

MISCELLANEOUS.

34. A separate book shall be kept in the High Court for the registration of certificates and conveyances under this Act, and the certificates and conveyances registered therein shall be numbered in order, and an index to the book shall be kept in such form as the Court may direct. R.S.O. 1897, c. 135, s. 39.

Register to be kept.

35. Where any person who, if not under disability, might have made any application, given any consent, or done any act, or been party to any proceedings under this Act, is an

Where any party is a minor, lunatic, etc.

infant, an idiot or a lunatic, the guardian of the infant, or committee of the estate of the idiot or lunatic, may make such application, give such consent, do such act, and be party to such proceeding as such person might, if free from disability, and shall otherwise represent such person for the purposes of this Act; and if the infant has no guardian, or the idiot or lunatic no committee of his estate the Court or Judge may appoint a person with like power to act for the infant, idiot or lunatic. R.S.O. 1897, c. 135, s. 40, *part*.

Married women.

36. A married woman shall, for the purposes of this Act, be deemed a *feme sole*. R.S.O. 1897, c. 135, s. 40, *part*.

No objection to proceeding to establish title that petitioner should first have brought an action.

37. No objection to a petition shall be allowed upon the ground that the petitioner should first have brought an action, and if it appears upon the determination of the investigation that the petitioner is entitled to the possession of the land, he may obtain an order against any other party to the proceeding for the delivery of possession thereof. R.S.O. 1897, c. 135, s. 43.

Proceedings not abated by certain events.

38. Proceedings shall not abate or be suspended by any death or transmission or change of interest, but in any such event the Court or a Judge may require notices to be given to persons becoming interested, or may make any order for discontinuing, or suspending, or carrying on the proceedings, or otherwise, in relation thereto, as may seem just. R.S.O. 1897, c. 135, s. 44.

Proceedings not void for want of form.

39. No petition, order, affidavit, certificate, registration or other proceeding shall be invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1897, c. 135, s. 45.

Certificate to be void if obtained by fraud.

40.—(1) If in the course of any proceeding any person acting either as principal or agent, knowingly and with intent to deceive, makes or assists or joins in or is privy to the making of any material false statement or representation, or suppresses, withholds or conceals or assists or joins in or is privy to the suppression, withholding or concealing from the Court of any material document, fact or matter of information, any certificate or conveyance obtained by means of such fraud or falsehood, shall be null and void except as against a purchaser for valuable consideration without notice. R.S.O. 1897, c. 135, s. 47.

Exception.

Conviction for fraud not to affect other remedy.

(2) No proceeding for a contravention of this section, and no conviction for any criminal offence committed in the course of any proceeding shall affect any remedy to which

any person aggrieved thereby may be entitled against the person who committed the same. R.S.O. 1897, c. 135, s. 48.

41.—(1) There shall be an Inspector of Titles, who shall Inspector of Titles. supervise the work of the Local Referees of Titles.

(2) Such officer of the High Court as may be designated for that purpose by Rule of Court shall be the Inspector of Titles. *New.*

42. Every Local Master shall be Local Referee of Titles Referees of Titles. and the Inspector of Titles shall be the Referee of Titles where the proceedings under the petition are to be conducted at Toronto. *New.*

43. The Inspector of Titles, the Referee of Titles and every Local Referee of Titles in respect of the petition and the proceedings thereunder shall have the like powers as the Master in Chambers. *New.* Powers of inspector and Referees.

44. The Referee of Titles shall have the same powers as a Judge of the High Court within the limits prescribed by the Rules. Powers of Referee of Titles.

45. Subject to Rules of Court, unless where otherwise provided, the practice and procedure under *The Judicature Act* and Rules made thereunder shall apply to proceedings under this Act. *New.* Application of Judicature Act. Rev. Stat. c. 51.

46.—(1) A Judge or Referee under this Act shall, in respect of any petition before him, have the like powers as the Master of Titles has under *The Land Titles Act*. Power of Judge or Referee. Rev. Stat. c. 138.

(2) The rules and procedure enacted by and any rules made under *The Land Titles Act*, shall apply to proceedings under this Act, except rules to be hereafter made, which are declared not so to apply, but this subsection shall not apply to the City of Toronto or the County of York. Rules and procedure under c. 138 to apply to proceedings.

(3) Nothing in this section shall dispense with supervision over Referees by the Inspector of Titles, or prevent further rules being enacted in respect thereof. R.S.O. 1897, c. 135, s. 49. Supervision over Referees.

47.—(1) The Judges authorized under *The Judicature Act* may make Rules for referring petitions under this Act to any Referee of Titles or other officer of the Court, or to any counsel or other person and may regulate the fees to be paid on such references. Court may make General Rules for carrying out this Act.

(2) The Judges may also make Rules for the purposes of and for regulating the practice or procedure under this Act notwithstanding that the practice or procedure prescribed by this Act may be thereby varied. R.S.O. 1897, c. 135, s. 50.

Repeal.

48. Chapter 135 of the Revised Statutes, 1897, and all amendments thereto are repealed.

FORM 1.

PETITION TO QUIET A TITLE.

In the High Court of Justice.

In the matter of *(the East half of lot No. in the
Concession of the Township of or as the case may be,
briefly describing the property).*

To the Honourable the Judges of the High Court of Justice for Ontario.

The Petition of of
SHEWETH,—

That your Petitioner is absolute owner in fee simple in possession *(or as the case may be)* of the following land *(describing it)*.

That there is no charge or other incumbrance affecting your Petitioner's title to the said land, *(except, etc., or that your Petitioner's title is subject only to the charges or incumbrances in the Schedule hereto mentioned, and that the only persons having or claiming any charge, incumbrance, estate, right or interest in the said land are set forth in the Schedule hereto annexed, and that the charge, incumbrance, estate, right or interest belonging to or claimed by each is therein set forth.)* Your Petitioner therefore prays that his title to the said land may be investigated and declared under *The Quieting Titles Act*.

(Signed) A.B.,

or

C.D., Solicitor for A.B.

R.S.O. 1897, c. 135, Sched. Form 1.

FORM 2.

ADVERSE CLAIM.

In the High Court of Justice.

In the matter of, etc., *(as in petition)*.

G.H., of, etc., claims to be the owner of the said land *[or as the case may be (stating briefly the nature and the grounds of the claim)]*.

Dated this day of , 19 .

(Signed) G.H.,

or

E.F., Solicitor for G.H.

R.S.O. 1897, c. 135, Sched. Form 3.

FORM 3.

CERTIFICATE.

In the High Court of Justice.

No.

These are to certify under the authority of *The Quieting Titles Act*, that A.B., of , is the legal and beneficial owner in fee simple in possession (or as the case may be) of all, etc. (*here describe the land*) subject to the exceptions and qualifications mentioned in section 22 of the said Act (or as the case may be), and to (*specifying either by reference to a schedule or otherwise any of the charges or incumbrances, exceptions or qualifications to which the title of A.B. is subject*), but free from all other rights, interests, claims and demands whatever.

[Or that (*stating the facts found and declared under section 31, and stating on whose application the same are declared*)].

In witness whereof President (or President of the Division, or one of the Justices) of the said Court has hereunto set his hand, and the seal of the said Court has been hereunto affixed, this day of , 19 .

G.S.H.,

Inspector (or Referee) of Titles.

J.A.B.

[L.S.]

R.S.O. 1897, c. 135, Sched. Form 4.

FORM 4.

CONVEYANCE BY HIGH COURT.

No.

The High Court of Justice for Ontario, under the authority of *The Quieting Titles Act*, doth hereby grant unto A.B., of [here describe the land sold] to hold the same unto the said in fee simple (or as the case may be), subject to [here specify as in the case of a certificate of title].

In witness whereof President (or President of the Division, or one of the Justices of the said Court) has hereunto set his hand, and the seal of the High Court has been hereunto affixed, this day of , 19 .

G.S.H.,

Registrar.

J.A.B.

[L.S.]

R.S.O. 1897, c. 135, Sched. Form 5.

No. 139.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act for Quieting Titles to Real Estate.

First Reading	day of	1910.
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act for Quieting Titles to Real Estate.

SHORT TITLE, s. 1.

APPLICATION TO QUIET TITLES:

By whom may be made, ss. 2-4.

Form of, s. 5.

Evidence in support of, ss. 6-11.

Notices of, ss. 12-16.

Adverse claims, ss. 17, 18.

Costs, ss. 19, 20.

Withdrawal of application, s. 21.

Reference of petitions to Masters, etc., s. 22.

To be deemed subject to certain exceptions unless otherwise alleged, s. 23.

CERTIFICATE OF TITLE:

Judge may give one or more certificates, s. 24.

Form of, s. 25.

Registration of, s. 26.

Effect of, s. 27.

Copy of, to be evidence, s. 28.

QUIETING TITLES IN SALES BY COURT, s. 29.

QUIETING TITLES IN ACTIONS FOR SPECIFIC PERFORMANCE WHERE VENDOR IS TO HAVE AN INDEFEASIBLE TITLE, s. 30.

JUDICIAL INVESTIGATION OF PARTICULAR FACTS AFFECTING TITLES, ss. 31, 32.

Effect of fraud in obtaining certificate, s. 33.

Re-investigation, s. 34.

APPEALS, s. 35.

MISCELLANEOUS:

Separate Court-book, s. 36.

Persons under disability, ss. 37, 38.

No objection that petitioner has not obtained possession, s. 39.

Proceedings not abated by death, etc., s. 40.

Nor to be void for want of form, s. 41.

Inspector of Titles, s. 42.

Powers of Inspector and Referee of Titles, ss. 43-45.

RULES UNDER THIS ACT, s. 46.

GENERAL RULES, s. 47.

REPEAL, s. 48.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Quieting Titles Act.*" Short title.
R.S.O. 1897, c. 135, s. 1.

2. An owner of an estate in fee simple in land or a trustee for the sale of the fee simple shall be entitled to have his title judicially investigated and the validity thereof ascertained and declared, whether he has the legal estate or not, and whether his title is or is not subject to any charge or incumbrance. R.S.O. 1897, c. 135, s. 2.

Owners, etc., in fee simple may obtain judicial investigation of title.

In case of any other estate; investigation to be discretionary with the Judge.

3. Any other person who has any estate or interest in land may apply for the investigation of his title and a declaration of the validity thereof; but it shall be in the discretion of the Judge before whom the proceedings are taken to grant or refuse the application; and such discretion may be invoked and exercised at any stage of the proceedings, and the decision of the Judge in exercising such discretion shall be subject to appeal. R.S.O. 1897, c. 135, s. 3.

Attorney-General may apply to quiet title to Crown Lands.

4. His Majesty's Attorney-General for Canada or His Majesty's Attorney-General for Ontario may apply for an investigation of the title of the Crown to any land and a declaration of the validity thereof, and the application may be made by information instead of petition, but in other respects the practice and procedure shall be the same as in ordinary cases. R.S.O. 1897, c. 135, s. 4.

Procedure.

Form of application and to whom.

5. Every application shall be made to the High Court or a Judge thereof and, subject to the provisions of section 4, shall be by petition, Form 1. R.S.O. 1897, c. 135, s. 5.

How the application must be supported.

6. The application shall be supported by the following particulars:

Title deeds.

(a) The title deeds (if any) and evidences of title in the possession or power of the applicant; R.S.O. 1897, c. 135, s. 7, par. 1.

Registered instruments.

(b) Certified copies of all registered instruments, or registered memorials of instruments, affecting the land, or of all since the last judicial certificate, if any, under this Act, up to the time of the granting of the certificate of title; R.S.O. 1897, c. 135, s. 7, par. 2; 6 Edw. VII. c. 19, s. 19 (2).

Registrar's certificate.

(c) An abstract of the title certified by the registrar of the registry division in which the land lies, unless the same be dispensed with in whole or in part;

Statement of facts.

(d) A concise statement of such facts as are necessary to make out the title, which do not appear in the produced documents; but no abstract of produced documents shall be required except on special grounds;

Proof of facts.

(e) Proof of any fact which is required to be proved in order to make out the title, and which is not established by the produced documents, unless the Judge dispenses with such proof until a future stage of the investigation;

(f) An affidavit or deposition by the person whose title is to be investigated and a certificate of his counsel or solicitor, to the effect hereinafter mentioned, unless the Judge, for special reason, dispenses therewith; Affidavit and certificate of counsel, etc.

(g) A schedule of the particulars produced under this section. R.S.O. 1897, c. 135, s. 7, pars. 3-7. Schedule of particulars produced.

7.—(1) The affidavit or deposition of the person whose title is to be investigated shall state that to the best of his knowledge and belief he is the owner of the estate or interest claimed by the petitioner, subject only to the charges and incumbrances set forth in the petition or in a schedule thereto, or that there is no charge or incumbrance affecting the land; that the deeds and evidences of title which he produces, and of which a list is contained in the schedule produced under the next preceding section, are all the title deeds and evidences of title relating to the land in his possession or power, and that he is not aware of the existence of any claim adverse to or inconsistent with his own to any part of the land or to any interest therein; or, if he is aware of such adverse claim, he shall set forth every such adverse claim, and shall depose that he is not aware of any, except what he sets forth. What the affidavit or deposition of the applicant must state. As to adverse claims of pos-

(2) The affidavit or deposition shall also set forth whether any one is in possession of the land and under what claim, right or title; and shall state that to the best of the deponent's knowledge, information and belief, the affidavit or deposition and the other papers produced therewith fully and fairly disclose all facts material to the title claimed by the petitioner, and all contracts and dealings which affect the same or any part thereof or give any right as against him. session, etc. As to petitioner's possession and other material facts.

(3) The affidavit or deposition may be dispensed with, or may be made by some other person instead of the person whose title is to be investigated, or an affidavit or deposition as to part may be made by one person, and as to part by another, in the discretion of the Judge to whom the application is made; and in such case the affidavit shall be modified accordingly. R.S.O. 1897, c. 135, s. 8. In certain cases it may be dispensed with or made by another person.

8. The certificate of the counsel or solicitor shall state that he has investigated the title, and believes the petitioner to be the owner of the estate which he claims in the land, subject only to any charge or incumbrance set forth in the petition or in the schedule thereto, or that he so believes, subject to any condition, qualification or exemption set forth in the certificate; and that he has conferred with the deponent on the subject of the various matters set forth in

What the certificate of counsel or solicitor must state.

the affidavit or deposition referred to in the next preceding two sections, and believes the affidavit or deposition to be true. R.S.O. 1897, c. 135, s. 9.

On what evidence Judge may proceed.

9.—(1) The Judge in investigating the title may receive and act upon any evidence that is received by the High Court on a question of title, and any evidence which the practice of conveyancers authorizes to be received on an investigation of a title out of Court; or any other evidence, whether the same is or is not receivable or sufficient in point of strict law or according to the practice of conveyancers, if the same satisfies the Judge of the truth of the facts intended to be established thereby.

Evidence in proceedings to quiet titles. Rev. Stat. c. 134.

(2) It shall not be necessary to produce any evidence which by *The Vendors and Purchasers Act* is dispensed with as between vendor and purchaser, or to produce or account for the originals of any registered deeds, documents or instruments, unless the Judge otherwise directs. R.S.O. 1897, c. 135, s. 10.

Form of proofs.

(3) The proof may be by affidavit or certificate; or may be given orally; or in any other manner or form satisfactory to the Judge. R.S.O. 1897, c. 125, s. 11.

Taxes must have been paid except for current year.

10. Before a certificate of title is granted satisfactory evidence shall be given by certificate, affidavit or otherwise, that all taxes, rates and assessments for which the land is liable have been paid, or that all, except those for the current year, have been paid. R.S.O. 1897, c. 135, s. 12.

Further proof if Judge not satisfied.

11. If the Judge is not satisfied with the evidence of title produced in the first instance he shall give a reasonable opportunity to produce further evidence or to remove defects in the evidence produced. R.S.O. 1897, c. 135, s. 13.

Judge to order notice to be published.

12.—(1) Except as hereinafter provided, before a certificate of title is granted or a conveyance is made under this Act, the Judge shall direct to be published in the *Ontario Gazette*, and if he sees fit in one or more newspapers, and in such form, and for such period as he deems expedient, a notice either of the application having been made, or of the order or decision of the Judge thereon, and the notice shall state the time within which adverse claims may be filed; and the certificate or conveyance shall not be signed or executed until after the expiration of at least four weeks from the first publication of such notice, or such other period as the Judge may appoint.

(2) Where the value of the land is proved to the satisfaction of the Judge to be not more than \$3,000, he may dispense with the publication of the notice and in lieu thereof may direct that for such period as he may think fit a printed or type-written notice of the application, or of the order or decision of the Judge thereon, be posted up in one or more conspicuous places on the land, and in such other place, if any, as he may think fit; and the certificate or conveyance shall not be signed or executed until the period limited by such notice for filing adverse claims shall have expired. R.S.O. 1897, c. 135, s. 14.

Notice of application where land is valued at not more than \$3,000.

13. Where the Judge is satisfied respecting the title, and considers that the certificate of title can safely be granted or the conveyance can be safely executed without any other notice of application than the published or posted notice, he may grant the certificate or direct the execution of the conveyance. R.S.O. 1897, c. 135, s. 15.

Judge may grant certificate without further notice.

14. Where it appears that there is any person who may have a claim adverse to or inconsistent with that of the petitioner to or in respect of any part of the land, the Judge shall direct such notice as he deems necessary to be mailed to or served on *such person*, his agent or solicitor. R.S.O. 1897, c. 135, s. 16.

Notice to adverse claimant.

15.—(1) Where it appears that any persons who will become the heirs of a living person or that any person not in esse may be interested in opposing the claim of the petitioners, the Judge may appoint a guardian ad litem to represent them and they shall be bound by the adjudication.

(2) The Judge may order that the costs of the guardian ad litem be paid by the petitioner.

(3) Unless the Judge otherwise directs, the official guardian shall be appointed guardian ad litem.

16. Before granting the certificate or directing the execution of the conveyance the Judge may require any further publication to take place, or any other notice to be mailed or served which he deems necessary. R.S.O. 1897, c. 135, s. 17.

Further publication or service of notice.

17.—(1) Any person having an adverse claim, or a claim not recognized in the petition may at any time before the certificate is granted or the conveyance is executed, file and serve on the petitioner, his solicitor or agent, a statement of his claim, Form 2.

Adverse claimants to file statements.

(2) The claim shall be verified by an affidavit to be filed therewith. R.S.O. 1897, c. 135, s. 18.

Verification.

In case of
contest, Judge
may decide or
refer the case.

18. In case of a contest, the Judge may either decide the question of title on the evidence before him, or may refer the same or any matter involved therein to a Divisional Court, or may direct any mode of investigation which he deems expedient, and may defer granting the certificate or directing the execution of the conveyance. R.S.O. 1897, c. 135, s. 19.

Security for
costs.

19. The Judge may at any stage of the proceeding order security for costs to be given by the petitioner, or by any person making an adverse claim. R.S.O. 1897, c. 135, s. 20.

Payment of
costs.

20. The Judge may order costs either as between party and party, or as between solicitor and client, to be paid by or to any party to any proceeding, and may give directions as to the fund out of which any costs shall be paid. R.S.O. 1897, c. 135, s. 21.

Withdrawal of
application.

21. The petitioner may by leave of the Judge withdraw his application at any time before final adjudication, on payment of all costs incurred in the investigation, either by himself or by any adverse claimant. R.S.O. 1897, c. 135, s. 22.

Petition may
be referred to
Master or
counsel.

22. Subject to Rules of Court, the Judge may refer a petition or any question arising in the course of any proceeding thereon to any referee of titles or other officer of the Court, or to counsel named by the Judge, who shall proceed as the Judge himself should do, had the reference not been made, and shall have all the powers of the Judge, except the power to grant the certificate or to direct the execution of the conveyance. R.S.O. 1897, c. 135, s. 23.

Claims of title
to be pre-
sumed to be
made with
certain
exceptions.

23.—(1) Every claim of title under this Act shall be presumed to be subject to the following exceptions and qualifications, unless the petition expressly states the contrary:

- (a) The reservations (if any) contained in the original grant from the Crown;
- (b) Any municipal charges, rates or assessments theretofore imposed for local improvements, and not yet due and payable;
- (c) Any title or lien which, by possession or improvements or other means, the owner or person interested in any adjoining land has acquired to or in respect of the land;

- (d) Any lease or agreement for a lease, for a period yet to run, not exceeding three years, where there is actual occupation under the same;
- (e) Any public highway, right of way, water-course and right of water, and other easement;
- (f) Any right of the wife or husband of the petitioner to dower or curtesy.

(2) If the petitioner desires the certificate to declare the title to be free from such exceptions or qualifications, or any of them, the petition shall so state, and the investigation shall proceed accordingly, but this subsection shall not apply to the exception or qualification as to a public highway. R.S.O. 1897, c. 135, s. 25.

But claim may be without exceptions.

CERTIFICATE OF TITLE.

24. The Judge may give one certificate of title comprising all the land mentioned in the petition, or may give separate certificates as to separate parts of the land. R.S.O. 1897, c. 135, s. 26.

One certificate or several.

25. The certificate of title, Form 3, shall be under the seal of the Court and shall be signed by a Judge and, where the proceedings on the petition are conducted in Toronto, by the Referee of Titles and in other cases by the Inspector of Titles and shall also be signed by the Clerk of Records and Writs of the High Court, and the same and the schedule (if any) thereto or a duplicate or counterpart of the same shall be registered in full both in the High Court and in the registry office of the registry division where the land lies, without any further proof thereof. R.S.O. 1897, c. 135, s. 27; 6 Edw. VII. c. 19, s. 19 (3).

Form of certificate of title.

26. A certificate of the registration in the High Court may be endorsed on the certificate of title, or on any counterpart or certified copy thereof, thus:

Registration of certificate.

"Registered in	19	Book
Page	,	
	A.H.,	

Clerk of Records and Writs (or as the case may be).

and a memorandum or certificate so signed shall be evidence of the registration mentioned therein. R.S.O. 1897, c. 135, s. 28.

27. The certificate of title sealed, signed and registered as required by section 25 shall be conclusive and the title therein mentioned shall be deemed absolute and indefeasible

Effect of certificate of title.

on and from the date of the certificate, as regards His Majesty and all persons whomsoever, subject only to any charges or incumbrances, exceptions or qualifications mentioned therein or in the schedule thereto, and shall be conclusive evidence that every application, notice, publication, proceeding, consent and act which ought to have been made, given and done before the granting of the certificate, has been made, given and done by the proper person. R.S.O. 1897, c. 135, s. 29.

Certified copy
of certificate
to be evidence.

28. After a certificate of title is registered, a copy thereof purporting to be signed and certified as a copy by the Clerk of Records and Writs, or by the Registrar of the registry division in which the land lies, shall be admissible evidence of the certificate for all purposes without further evidence of such copy, and without accounting for the non-production of the certificate. R.S.O. 1897, c. 135, s. 30.

Conveyance
by the Court
in case of sale.

29. In case of a sale by the High Court the Court may investigate the title with a view to granting an indefeasible title, and in that case, a conveyance, Form 4, executed to the purchaser, under the seal of the Court and purporting to be under the authority of this Act, shall have the same effect as a certificate. R.S.O. 1897, c. 135, s. 31.

Where an in-
defeasible
title is con-
tracted for.

30. Where judgment is given for the specific performance of a contract for the sale of land and it is provided by the contract that the vendor shall give an indefeasible title, the Court may make the like investigation, and the conveyance may be according to Form 4. R.S.O. 1897, c. 135, s. 32.

JUDICIAL INVESTIGATION OF PARTICULAR FACTS AFFECTING TITLES.

Right to judi-
cial investiga-
tion of some
fact which
may affect a
title.

31. Where a person domiciled or claiming land in Ontario desires to establish that he is the legitimate child of his parents, or that the marriage of his father or mother or of his grandfather and grandmother was a valid marriage, or that his own marriage was a valid marriage, or that he is the heir or one of the heirs of any person deceased, or that he is a natural born subject of His Majesty, he may, if the Court thinks fit, have any of such matters judicially investigated and declared. R.S.O. 1897, c. 135, s. 33.

Application.



How the peti-
tion must be
supported.

32.—(1) The application shall be by petition supported by an affidavit of the petitioner verifying the statements of the petition, and stating that his claim is not disputed or questioned by any person; or, if his claim is to his knowledge disputed or questioned, the facts in relation to such dispute or question, and that he is not aware of any dis-

pute or question except what he has set forth, and stating such other facts as may satisfy the Court of the propriety of proceeding with the investigation. R.S.O. 1897, c. 135, ss. 34 and 35.



(2) The proceedings upon the petition shall be the same as nearly as may be as in cases under section 2, and the certificate granted on the investigation shall be registered in the same way, and may be proved by the like evidence, as in the case of a certificate granted under section 13. R.S.O. 1897, c. 135, s. 36.

Investigation.
proof, etc., in
such case.

(3) The certificate when registered shall be conclusive and indefeasible in favour of the person to whom the same was granted and all persons claiming by, from, through or under him  as regards His Majesty and all persons whomsoever  and shall be *prima facie* evidence in favour of all other persons as against *His Majesty* and all persons *whomsoever* of the truth of the fact therein declared. R.S.O. 1897, c. 135, s. 37.

Effect of cer-
tificate.

EFFECT OF FRAUD IN OBTAINING CERTIFICATE.

 **33.** If in the course of any proceeding any person acting either as principal or agent, knowingly and with intent to deceive, makes or assists or joins in or is privy to the making of any material false statement or representation, or suppresses, withholds or conceals, or assists or joins in or is privy to the suppression, withholding, or concealing from the Court of any material document, fact or matter of information, any certificate or conveyance obtained by means of such fraud or falsehood, shall be null and void except as against a purchaser for valuable consideration without notice. R.S.O. 1897, c. 135, s. 47. 

RE-INVESTIGATION.

34.—(1) After a certificate is granted or a conveyance is executed any person aggrieved thereby may, on petition, and after satisfactorily accounting for his delay, by leave of the Court or a Judge, have the title or claim re-investigated on such terms as may be deemed just. R.S.O. 1897, c. 135, s. 41.



Re-investiga-
tion at the in-
stance of any
party ag-
grieved.

(2) A certificate of the presentation of the petition shall be registered in the proper registry office.

(3) No proceeding on such petition shall affect the title of any person who, after the date of the certificate or conveyance under this Act and before the registration of the

But those who
have purchas-
ed, etc., in the
meantime not
to be affected.

certificate of the presentation of the petition, has acquired, by sale, mortgage or contract, for valuable consideration, any estate or interest in the land described in the certificate or conveyance or, if the certificate was granted under section 31, in any land or other property; the title to which was derived from, through or under the person named in the certificate, in the character which is thereby declared to belong to him. R.S.O. 1897, c. 135, s. 42.

 (4) The Court or Judge may make such order on the petition as he may deem just having regard to the provisions of the next preceding subsection and of section 33. 

APPEALS.

Appeals.

35. An appeal shall lie from an order or decision of a Judge under this Act to a Divisional Court, or to the Court of Appeal, and from the order or decision of the Divisional Court to the Court of Appeal in the same manner and subject to the same restrictions as in the case of an appeal from a judgment or order of the High Court in an action. R.S.O. 1897, c. 135, s. 38.

MISCELLANEOUS.

Register to be kept.

36. A separate book shall be kept in the High Court for the registration of certificates and conveyances under this Act, and the certificates and conveyances registered therein shall be numbered in order, and an index to the book shall be kept in such form as the Court may direct. R.S.O. 1897, c. 135, s. 39.

Where any party is a minor, lunatic, etc.

37. Where any person who, if not under disability, might have made any application, given any consent, or done any act, or been party to any proceedings under this Act, is an infant, an idiot or a lunatic, the guardian of the infant, or committee of the estate of the idiot or lunatic, may make such application, give such consent, do such act, and be party to such proceeding as such person might, if free from disability, and shall otherwise represent such person for the purposes of this Act; and if the infant has no guardian, or the idiot or lunatic no committee of his estate the Court or Judge may appoint a person with like power to act for the infant, idiot or lunatic. R.S.O. 1897, c. 135, s. 40, *part*.

Married women.

38. A married woman shall, for the purposes of this Act, be deemed a *feme sole*. R.S.O. 1897, c. 135, s. 40, *part*.

39. No objection to a petition shall be allowed upon the ground that the petitioner should first have brought an action, and if it appears upon the determination of the investigation that the petitioner is entitled to the possession of the land, he may obtain an order against any other party to the proceeding for the delivery of possession thereof. R.S.O. 1897, c. 135, s. 43.

No objection to proceeding to establish title that petitioner should first have brought an action.

40. Proceedings shall not abate or be suspended by any death or transmission or change of interest, but in any such event the Court or a Judge may require notices to be given to persons becoming interested, or may make any order for discontinuing, or suspending, or carrying on the proceedings, or otherwise, in relation thereto, as may seem just. R.S.O. 1897, c. 135, s. 44.



Proceedings not abated by certain events.

41. No petition, order, affidavit, certificate, registration or other proceeding shall be invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceeding. R.S.O. 1897, c. 135, s. 45.

Proceedings not void for want of form.

42.—(1) There shall be an Inspector of Titles, who shall supervise the work of the Local Referees of Titles.

Inspector of Titles.



(2) Such officer of the High Court as  shall have been or  may be designated for that purpose by Rule of Court shall be the Inspector of Titles. *New.*

43. Every Local Master shall be Local Referee of Titles and the Inspector of Titles shall be the Referee of Titles where the proceedings under the petition are to be conducted at Toronto. *New.*

Referees of Titles.

44. The Inspector of Titles, the Referee of Titles and every Local Referee of Titles in respect of the petition and the proceedings thereunder shall have the like powers as the Master in Chambers. *New.*

Powers of inspector and Referees.

45. The Referee of Titles  and every Local Referee of Titles  shall have the same powers as a Judge of the High Court within the limits prescribed by the Rules.

Powers of Referee of Titles.

46. Subject to Rules of Court, unless where otherwise provided, the practice and procedure under *The Judicature Act* and Rules made thereunder shall apply to proceedings under this Act. *New.*

Application of Judicature Act. Rev. Stat. c. 51.

47.—(1) The Judges authorized under *The Judicature Act* may make Rules for referring petitions under this Act to any Referee of Titles or other officer of the Court, or to any counsel or other person and may regulate the fees to be paid on such references.

Court may make General Rules for carrying out this Act.

(2) The Judges may also make Rules for the purposes of and for regulating the practice or procedure under this Act notwithstanding that the practice or procedure prescribed by this Act may be thereby varied. R.S.O. 1897, c. 135, s. 50.

Repeal.

48. Chapter 135 of the Revised Statutes, 1897, and all amendments thereto are repealed.

FORM 1.

PETITION TO QUIET A TITLE.

In the High Court of Justice.

In the matter of *(the East half of lot No. in the Concession of the Township of or as the case may be, briefly describing the property).*

To the Honourable the Judges of the High Court of Justice for Ontario.

The Petition of _____ of
SHEWETH,—

That your Petitioner is absolute owner in fee simple in possession *(or as the case may be)* of the following land *(describing it)*.

That there is no charge or other incumbrance affecting your Petitioner's title to the said land, *(except, etc., or that your Petitioner's title is subject only to the charges or incumbrances in the Schedule hereto mentioned, and that the only persons having or claiming any charge, incumbrance, estate, right or interest in the said land are set forth in the Schedule hereto annexed, and that the charge, incumbrance, estate, right or interest belonging to or claimed by each is therein set forth.)* Your Petitioner therefore prays that his title to the said land may be investigated and declared under *The Quieting Titles Act*.

(Signed) A.B.,

or

C.D., Solicitor for A.B.

R.S.O. 1897, c. 135, Sched. Form 1.

FORM 2.

ADVERSE CLAIM.

In the High Court of Justice.

In the matter of, etc., *(as in petition)*.

G.H., of, etc., claims to be the owner of the said land *[or as the case may be (stating briefly the nature and the grounds of the claim)]*.

Dated this _____ day of _____, 19 _____

(Signed) G.H.,

or

E.F., Solicitor for G.H.

R.S.O. 1897, c. 135, Sched. Form 3.

FORM 3.

CERTIFICATE.

In the High Court of Justice.

No.

These are to certify under the authority of *The Quietting Titles Act*, that A.B., of _____, is the legal and beneficial owner in fee simple in possession (or as the case may be) of all, etc. (*here describe the land*) subject to the exceptions and qualifications mentioned in section 22 of the said Act (or as the case may be), and to (specifying either by reference to a schedule or otherwise any of the charges or incumbrances, exceptions or qualifications to which the title of A.B. is subject), but free from all other rights, interests, claims and demands whatever.

[Or that (stating the facts found and declared under section 31, and stating on whose application the same are declared)].

In witness whereof _____ President (or President of
the _____ Division, or one of the Justices) of the said Court has
hereunto set his hand, and the seal of the said Court has been
hereunto affixed, this _____ day of _____ 19____

G.S.H.,

Inspector (or Referee) of Titles.

J.A.B.

[L.S.]

R.S.O. 1897, c. 135, Sched. Form 4.

FORM 4.

CONVEYANCE BY HIGH COURT.

No.

The High Court of Justice for Ontario, under the authority of
The Quietings Titles Act, doth hereby grant unto A.B., of
[here describe the land sold] to hold the same unto the said
in fee simple (or as the case may be),
subject to [here specify as in the case of a certificate of title].

In witness whereof President (or President of the
Division, or one of the Justices of the said Court) has
hereunto set his hand, and the seal of the High Court has been
hereunto affixed, this day of , 19

G.S.H.,

Registrar.

J.A.B.

[L.S.]

R.S.O. 1897, c. 135, Sched. Form 5

No. 139.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act for Quieting Titles to Real Estate

First Reading 27th day of January, 1910
2nd Reading 28th day of January, 1910

*(Reprinted as amended in Committee of
the Whole House.)*

Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting the County Courts and District Courts.

SHORT TITLE, s. 1.	VENUE FOR CERTAIN ACTIONS, ss.
STYLE OF THE COURTS, s. 2.	30, 31.
JUDGES, ss. 3-5.	PLEADING AND PRACTICE, s. 32.
CLERKS, ss. 6-13.	COSTS WHERE NO JURISDICTION,
SPECIAL EXAMINERS OF HIGH	s. 33.
COURT TO BE OFFICERS OF	ENFORCING JUDGMENTS, ETC., s.
COUNTY COURTS, s. 14.	34.
SITTINGS, ss. 15-20.	POWER TO ENFORCE RULES, s. 35.
JURISDICTION, ss. 21-23.	ACCOUNTS AND INQUIRIES, ss. 36,
REMOVAL OF ACTIONS INTO HIGH	37.
COURT, s. 29.	APPEALS, ss. 38-46.
	TARIFF OF COSTS, s. 47.
	REPEAL, s. 48.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as “*The County Courts Act.*” Short title.
R.S.O. 1897, c. 55, s. 1.

2. There shall be in and for every county and district a Court of Record, to be styled in counties, the County Court of the County (*or* United Counties) of (naming the county or united counties) and in districts the District Court of the District of (naming the district). R.S.O. 1897, c. 55, s. 2.

JUDGES.

3. Subject to the provisions of *The County Judges Act*, the Court shall be presided over by the Judge or Junior Judge or by the acting or the Deputy Judge. R.S.O. 1897, c. 55, s. 3.

[As to Judges being Local Judges of the High Court, see Cap. 51, sec. 185; and as to Judges exercising authority of Master in Chambers and local Masters see Consolidated Rules of Supreme Court of Judicature.]

Illness or
absence of
County
Judge.

4. In case of the illness or absence of such Judges the Court may be presided over by a Judge of any other County or District Court, or by one of his Majesty's Counsel learned in the law, upon the request in writing of the Judge or of the Attorney-General for Ontario. R.S.O. 1897, c. 55, s. 4.

Seal.

5. Every such Court shall be provided with a suitable seal to be approved of by the Lieutenant-Governor in Council.
New.

CLERKS.

The Lieuten-
ant-Governor
to appoint
clerks.

6. There shall be a Clerk of every such Court, who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure. R.S.O. 1897, c. 55, s. 5.

Clerks to give
security.

7. The Clerk shall give security for the due performance of the duties of his office in such sum and in such manner and form as the Lieutenant-Governor in Council may direct. R.S.O. 1897, c. 55, s. 6.

Place of
office.

8.—(1) The Clerk shall keep his office in the Court House or, if there is no room available therein, then at such place in the county or district town as the Judge may direct.

In the County
of Essex.

(2) The Clerk of the County Court of the County of Essex may keep an office in some convenient place in the City of Windsor, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval of the Lieutenant-Governor in Council. R.S.O. 1897, c. 55, s. 7.

Office hours.

9. Except on holidays and subject to Rules of Court as to office hours during vacations, the office of the Clerk shall be kept open from 10 o'clock in the forenoon until 4 o'clock in the afternoon, except on Saturday, when the office shall be kept open until 1 o'clock in the afternoon. R.S.O. 1897, c. 55, s. 8.

Clerk to ren-
der accounts
to Crown
Attorney.

10. The Clerk shall, whenever required so to do by the Crown Attorney, and at least once in every three months, deliver to him, verified by the affidavit of the Clerk, a full account in writing of all fines levied by order of the Court. R.S.O. 1897, c. 55, s. 9.

[As to return of fees by County Court Clerks see Cap. 16, sec. 29, and as to payment of proportion to Provincial Treasurer see Cap. 18.]

Clerk to tax
costs.

11. The Clerk shall tax costs, subject to an appeal to the Judge. R.S.O. 1897, c. 55, s. 10.

12. The Clerk shall not, for fee or reward, draw or advise upon a chattel mortgage or other paper or document connected with the duties of his office and for which a fee is not expressly allowed by the tariff. R.S.O. 1897, c. 55, s. 11.

Clerk not to draw or advise on documents.

13. In the event of the death, resignation or removal from office of the Clerk, the Clerk of the Peace shall, *ex-officio*, be the Clerk until another person is appointed and assumes the duties of the office, and every Clerk of the Peace while Clerk of the Court, shall, except in the County of York, be also *ex-officio* Deputy Clerk of the Crown and Registrar of the Surrogate Court, if the Clerk held that office; and in case the Clerk was Local Registrar, the Clerk of the Peace, while he holds the office of Clerk of the Court, shall be *ex-officio* Local Registrar. R.S.O. 1897, c. 55, s. 12.

Clerk of the Peace to act *ex-pro tem* in case of the death, etc., of the County Court Clerk.

SPECIAL EXAMINERS.

14. The special examiners of the High Court shall be officers of the County and District Courts, and shall possess the like powers in County and District Court cases as those possessed by them in High Court cases. R.S.O. 1897, c. 55, s. 13.

Special examiners of High Court to be officers of County Court.

SITTINGS.

15.—(1) Except in the County of York, and subject to the provisions of *The County Judges Act*, sittings of the County Courts for the trial of issues of fact and assessments of damages, with or without a jury, shall be held semi-annually, to commence on the second Tuesday in June and December. R.S.O. 1897, c. 55, s. 15.

Trial sittings of County Courts.
9 Edw. VII.
c. 29.

(2) In the County of York four such sittings shall be held in each year, to commence on the first Tuesday in December and March, and on the second Tuesday in May and September. R.S.O. 1897, c. 55, s. 16.

In County of York.

(3) Except in the County of York, there shall be sittings of every County and District Court on the first Tuesday in April and October in each year for the trial of issues of fact and assessments of damages without a jury. R.S.O. 1897, c. 55, s. 17.

County Court sittings without a jury in April and October.

16. Sittings of the District Courts for the trial of issues of fact and assessments of damages, with or without a jury, shall be held at,

Sittings of District Courts.

(a) Bracebridge on the third Tuesday of June and November;

(b) Fort Frances on the first Tuesday of June and November;

(c) Gore Bay on the last Tuesday of May and the third Tuesday of October;

(d) Kenora on the first Tuesday of June and the second Tuesday of October;

(e) North Bay on the second Tuesday of June and the fourth Tuesday of November;

(f) Parry Sound on the first Tuesday of June and November;

(g) Port Arthur on the third Tuesday of May and the second Tuesday of November;

(h) Sault Ste. Marie on the second Tuesday of June and November; and at

(i) Sudbury on the first Tuesday of June and November. R.S.O. 1897, c. 109, s. 21; 62 V. (2), c. 14, s. 7; 7 Edw. VII., c. 25, s. 4; 8 Edw. VII., c. 36, s. 4.

Sittings on first day to commence at one o'clock in the afternoon.

17. The sittings of the County Courts provided for by subsections 1 and 2 of section 15 and the sittings of the District Courts, provided for by section 16 shall not open earlier than one o'clock in the afternoon of the first day of the sittings. R.S.O. 1897, c. 55, s. 18.

Additional non-jury sittings.

18. Besides the regular sittings, additional sittings for trials without a jury may be held at such time as the Judge may direct or appoint; and such sittings shall be held as often as may be requisite for the due despatch of business. R.S.O. 1897, c. 55, s. 19.

Concurrent sittings for trial of jury and non-jury cases.

19. The Judges of any County or District Court may sit separately and concurrently for the despatch of the business of a sittings. *See* R.S.O. 1897, c. 55, s. 20.

Adjourning County Courts owing to illness of Judge, etc.

20.—(1) Where the Judge who is to hold the sittings is unable to hold the same at the time appointed, the Sheriff, or in his absence the Deputy Sheriff, shall adjourn the Court by proclamation to an hour on the following day to be named by him, and so from day to day until the Judge is able to hold the Court, or until he receives other directions from the Judge or from the Provincial Secretary.

(2) The Sheriff shall forthwith notify the Provincial Secretary of the adjournment. R.S.O. 1897, c. 55, s. 21. Provincial Secretary to be notified.

JURISDICTION.

21.—(1) In an action in the High Court, the County or District Court of the county or district, the county or district town of which is named as the place of trial, shall have jurisdiction for the purpose of trial only, where all the parties agree thereto by a memorandum in writing signed by them or their solicitors and filed in the proper office at or before the time of setting the action down for trial, but all proceedings in the action subsequent to the trial shall be had, and all costs, fees and disbursements, including those of the trial, shall be the same as if the trial had taken place at a sittings of the High Court. Agreements as to trial of High Court actions in County Court.

(2) Where an action has been entered for trial in the High Court the parties may by filing the memorandum before the action has been tried transfer the same for trial only by such County or District Court. 6 Edw. VII. c. 20, s. 1.

22.—(1) The County and District Courts shall have jurisdiction in: Jurisdiction.

- (a) Actions arising out of contract, expressed or implied, where the sum claimed does not exceed \$800;
- (b) Personal actions, except actions for criminal conversation and actions for libel, where the sum claimed does not exceed \$500;
- (c) Actions for trespass or injury to land where the sum claimed does not exceed \$500, unless the title to the land is in question, and in that case also where the value of the land does not exceed \$500, and the sum claimed does not exceed that amount;
- (d) Actions for the obstruction of or interference with a right of way or other easement where the sum claimed does not exceed \$500, unless the title to the right or easement is in question, and in that case also where the value of the land over which the right or easement is claimed does not exceed that amount. *New.*
- (e) Actions for the recovery of property, real or personal, including actions of replevin and actions

of detinue where the value of the property does not exceed \$500;

- (f) Actions for the enforcement by foreclosure or sale or for the redemption of mortgages, charges or liens, where the sum claimed to be due does not exceed \$500;
- (g) Partnership actions where the joint stock or capital of the partnership does not exceed in amount or value \$2,000;
- (h) Actions by legatees under a will for the recovery or delivery of money or property bequeathed to them where the legacy does not exceed in value or amount \$500, and the estate of the testator does not exceed in value \$2,000;
- (i) All other actions for equitable relief where the subject matter involved does not exceed in value or amount \$500; and
- (j) Actions and contestations for the determination of the right of creditors to rank upon insolvent estates where the claim of the creditor does not exceed \$500.

Dispute of
jurisdiction
by defendant.

(2) Where a defendant intends to dispute the jurisdiction of the Court on the ground that the action, though otherwise within the proper competence of the Court, is not within it because of the amount claimed or of the value of the property in question or of the amount or value of the subject matter involved or, in the cases mentioned in clauses (g) and (h) of subsection 1, because the joint stock or capital of the partnership exceeds in amount or value \$2,000, or the estate of the testator exceeds in value \$2,000, he shall in his appearance state that he disputes the jurisdiction of the Court and the ground upon which he relies for disputing it; and, in default of his so doing, unless otherwise ordered by the Court or a Judge, the question of jurisdiction shall not afterwards be raised or the jurisdiction be brought in question.

Plaintiff may
transfer to
High Court.

(3) Where the notice mentioned in the next preceding subsection is given, the plaintiff may on praecipe require all papers and proceedings in the action to be transmitted to the proper office of the High Court in the county or district in which the action was brought, and it shall be the duty of the Clerk of the County or District Court forthwith to transmit the same to such office.

(4) When the papers and proceedings so transmitted are received at the proper office of the High Court, the action shall *ipso facto* be transferred to the High Court. Action transferred.

(5) Where the plaintiff does not exercise the right conferred by subsection 3 the defendant may after the expiration of ten days from the entry of appearance apply to a Judge of the High Court for an order transferring the action into that Court. *New.* At instance of defendant.

(6) Where the Court or a Judge makes an order under the provisions of subsection 2 allowing the defendant to question the jurisdiction of the Court the Court or Judge may direct the action to be transferred into the High Court on such terms as to costs and otherwise as may be deemed just. Terms of order of transfer.

(7) Where an action is transferred into the High Court under the provisions of this section, if the plaintiff is awarded costs, unless otherwise ordered by the Court or a Judge, they shall be taxed according to the scale of the High Court, whether or not the action be in fact within the proper competence of the County or District Court. 9 Edw. VII. c. 28, s. 21. Scale of costs in action transferred.

23.—(1) Where the defendant pleads a set-off or counterclaim either party, within six days after the plaintiff has delivered his reply to such defence of set-off or his defence to the counterclaim, may apply to a Judge of the High Court for an order transferring the action and counterclaim into the High Court on the ground that such set-off or counterclaim involves matter beyond the jurisdiction of the Court. Where set-off or counterclaim is beyond jurisdiction.

(2) The Judge, if satisfied that the set-off or counterclaim involves matter which exceeds the jurisdiction of the Court, may order the transfer upon such terms as to costs and otherwise as he may deem just. Judge's order transferring.

(3) If no such application is made within the time limited, or if an application so made has been refused, the jurisdiction of the Court to hear and determine the whole matter involved in the set-off or counterclaim shall be deemed to be established. *See R.S.O. 1897, c. 55, s. 30.* Jurisdiction established where no order of transfer made.

24. Where an action has been transferred into the High Court or into another County or District Court under any provision of this Act, it shall be in the same plight and condition as it was in at the time of the transfer, and thereafter may be proceeded with as if it had been commenced in the Court into which it has been so transferred. *R.S.O. 1897, c. 55, s. 34; 4 Edw. VII. c. 10, s. 12.* Proceedings to be continued in same form.

Transfer of
action to
County Court
having juris-
diction.

25. Where it appears in an action brought in a County or District Court that such Court has not cognizance thereof, but that the Court of some other County or District has jurisdiction to try the same, the Judge before whom the action is pending may, at any time before or during the trial thereof, order the action to be transferred to such other County or District Court upon such terms as to costs and otherwise as he may deem just. 4 Edw. VII. c. 10, s. 11.

Prohibition
not to lie
when case
transferred.

26. Prohibition shall not lie in respect of an action or counterclaim which may be transferred under the provisions of this Act into the High Court or from one County or District Court into another County or District Court. *New.*

Abandonment
of so much of
claim as is in
excess of
jurisdiction.

27.—(1) Where it appears that the claim of the plaintiff is for an amount beyond the jurisdiction of the Court, he may by writing signed by him and filed, upon such terms as the Judge deems proper as to costs and otherwise, abandon the excess and in such case the plaintiff shall forfeit such excess, and shall not be entitled to recover it in any other action. R.S.O. 1897, c. 55, s. 26.

(2) A defendant shall have the like right in respect of his set-off or counterclaim. *New.*

[As to transfer of actions from High Court to County or District Court see The Judicature Acts.]

Relief which
may be
granted by
County
Courts.

28. The Court shall, as regards all causes of action within its jurisdiction, have power to grant and shall grant such relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to grant vesting orders and to relieve against penalties and forfeitures, and shall give such and the like effect to every ground of defence or counter-claim, equitable or legal, by the same mode of procedure, and in as full and ample a manner as might and ought to be done in the like case by the High Court. R.S.O. 1897, c. 55, s. 28.

In what cases
and on what
conditions
causes shall
be removable.

29. Except in the cases mentioned in subsections 3, 5 and 6 of section 22 and in section 23, no action shall be removed by order of certiorari, or otherwise, into the High Court unless the debt or damages claimed amount to upwards of \$100, and then only on affidavit and by leave of a Judge of the High Court, if it appears to the Judge fit to be tried in the High Court, and upon such terms as to costs, giving security for debt or costs and otherwise as he deems just. R.S.O. 1897, c. 55, s. 33.

30.—(1) Unless by consent of the parties, or unless the place of trial is changed, actions under clauses (c) and (d) of section 22, shall be brought and tried in the court of the county or district in which the land is situate, and actions under clause (g) of that section shall be brought and tried in the court of the county or district where the partnership has or had its principal place of business, and actions under clause (h) of that section shall be brought and tried in the court of the county or district where letters probate or of administration have issued, or where the deceased resided at the time of his death. Venue for certain actions.

(2) Actions for the recovery of real property shall be brought and tried in the court of the county or district in which the property sought to be recovered is situate. Actions for recovery of real property.
R.S.O. 1897, c. 55, s. 36.

31. An action by or against a Judge shall not be brought in the court of which he is a Judge, but shall be brought in the court of a county or district adjoining that in which such Judge resides. Where action against Judge of County Courts may be brought. R.S.O. 1897, c. 55, s. 37.

32. Subject to the provisions of *The Judicature Act* and to Rules of Court, the practice and procedure of the High Court shall apply to the County and District Courts. Procedure in County Courts. Rev. Stat. c. 51. R.S.O. 1897, c. 55, s. 40.

COSTS WHERE NO JURISDICTION.

33. Where the plaintiff fails to recover judgment by reason that the Court has not jurisdiction, the Court shall nevertheless have jurisdiction over the costs of the action or other proceeding, and may order by and to whom the same shall be paid. Costs where action falls for want of jurisdiction. R.S.O. 1897, c. 55, s. 42.

ENFORCING JUDGMENTS AND ORDERS.

34. Every County and District Court shall have the like power as is possessed by the High Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the High Court; and the same shall have the like force and effect as writs and process issued out of the High Court. Power to enforce judgments and orders. See R.S.O. 1897, c. 55, ss. 43 and 44.

PUNISHMENT FOR CONTEMPT OF COURT.

35. Every County and District Court may punish by fine or imprisonment, or by both, for any wilful contempt of or resistance to its process, rules or orders; but the fine Power to punish for contempt.

shall not in any case exceed \$100, nor shall the imprisonment exceed six months. R.S.O. 1897, c. 55, s. 45.

ACCOUNTS AND INQUIRIES.

References.

36.—(1) Where it is proper to direct a reference, the same may be made to any officer to whom a reference may be directed by the High Court or to the Clerk of the Court.

(2) Where the Judge of the Court is Local Master the reference may be made to himself but no fees shall be charged by him on such reference. R.S.O. 1897, c. 55, s. 46.

Costs of reference.

(3) Upon every such reference the fees to be paid and the costs to be allowed, whether as between party and party, or solicitor and client, shall be according to the County Court tariff. R.S.O. 1897, c. 55, s. 47.

Powers of reference.

37.—(1) In an action in a County or District Court the Judge shall have the same powers with regard to the making of an order of reference as may be exercised by a Judge of the High Court in an action therein. R.S.O. 1897, c. 62, s. 37; 9 Edw. VII. c. 27, s. 3 (121f).

Appeal from referee.

(2) An appeal in like manner and within the same time as in like cases in actions in the High Court shall lie from the report on the reference to the Judge of the County or District Court in chambers, who shall upon such appeal have the same power as may be exercised by a Judge in like cases in the High Court. R.S.O. 1897, c. 62, s. 38; 9 Edw. VII. c. 27, s. 3. (121f).

Appeal from judgment on appeal.

(3) An appeal shall lie from any order, judgment or decision of the Judge of a County or District Court and from the report upon a reference made under subsection 2 of section 36 to a Divisional Court of the High Court and the proceedings and practice on the appeal as to staying proceedings and otherwise shall be similar to the proceedings and practice relating to an appeal from a judgment under the provisions of section 39. R.S.O. 1897, c. 62, s. 39; 9 Edw. VII. c. 27, s. 3 (121f).

This provision not to apply to Crown.

(4) Nothing in this section shall empower the Judge of a County or District Court to refer any proceeding to which His Majesty is a party, or any question or issue in any such proceeding, to an official referee, without the consent of His Majesty. R.S.O. 1897, c. 62, s. 46, *part*; 9 Edw. VII. c. 27, s. 3 (121g).

Application of Con. Rules 648-658.

(5) Consolidated Rules 648 to 653 or any Rules substituted for them shall apply to references under this section. 9 Edw. VII. c. 27, s. 3 (121h).

APPEALS.

38. The terms "party to a cause or matter," and "appellant," hereinafter used, shall include a person suing or being sued in the name of another, and a person on whose behalf or for whose benefit an action is prosecuted or defended. Meaning of "party to a cause or matter," and "appellant."
 R.S.O. 1897, c. 55, s. 50.

39.—(1) Any party to a cause or matter may appeal to a Divisional Court of the High Court from any judgment directed to be entered at or after the trial. Appeals to Divisional Courts.

(2) A motion for a new trial shall be deemed an appeal and shall be made to a Divisional Court. R.S.O. 1897, c. 55, s. 51; 9 Edw. VII. c. 28, s. 21. Moving for new trial.

40.—(1) An appeal shall also lie to a Divisional Court at the instance of any party to a cause or matter from Appeals from decision of Judge.

(a) Every decision of a Judge under any of the powers conferred upon him by any of the Rules of Court or by any statute, unless provision is therein made to the contrary;

(b) Every decision or order made by a Judge in Chambers under the provisions of the law relating to interpleader proceedings, the examination of debtors, attachment of debts and proceedings against garnishees;

(c) Every decision or order in any cause or matter disposing of any right or claim, if the decision or order is in its nature final and not merely interlocutory; and from

(d) Any decision or order of a Judge whether pronounced or made at the trial or on appeal from taxation or otherwise, which has the effect of depriving the plaintiff of County Court costs on the ground that his action is of the proper competence of the Division Court or of entitling him to County Court costs on the ground that the action is not of the proper competence of the Division Court. 4 Edw. VII. c. 10, s. 13. Appeal as to costs.

(2) This section shall not apply where jurisdiction is given to the Judge as *persona designata*. R.S.O. 1897, c. 55, s. 52. Exception where Judge is persona designata.

[As to appeals where Judge is *persona designata*. See 9 Edw. VII. c. 46, sec. 4.]

Appeal after
judgment
signed.

41. An appeal may be had, notwithstanding that judgment has been signed. R.S.O. 1897, c. 55, s. 53.

Pleadings,
etc., to be
certified.

42.—(1) The Judge shall, at the request of the appellant, certify under his hand to the proper officer of the High Court the pleadings in the cause and all motions or orders made, granted or refused therein, and his judgment or decision, and, where a trial has been had, his charge to the jury, if any, the evidence and all objections and exceptions thereto, or to his charge, and all other papers in the cause affecting the question raised by the appeal. R.S.O. 1897, c. 55, s. 55.

Certifying
proceedings
under ss. 40
or 41.

(2) The Judge shall be required to certify only the pleadings, motions, orders, affidavits, evidence and other material, necessary for the full understanding of the matter in appeal, together with his judgment or decision. R.S.O. 1897, c. 55, s. 56.

Staying pro-
ceedings on
appeal.

43. Subject to the next following section, any Judge of the County or District Court appealed from may, upon application to him, stay proceedings in the action to enable the appeal to be brought, upon such terms and for such time as he may deem just. Con. Rule 794.

Setting down
appeals.

44.—(1) The appeal shall be set down for argument at the first sittings of a Divisional Court which commences after the expiration of thirty days from the judgment, order or decision complained of. R.S.O. 1897, c. 55, s. 57.

Extension of
time for
appeal.

(2) Subject to Rules of Court a Divisional Court, or a Judge of the High Court, notwithstanding that the Judge of the County or District Court has not certified the pleadings and other papers, or that they have not been filed in the High Court, may extend the time for setting down the appeal or for giving notice of setting down or for doing any act or taking any proceeding in or in relation to the appeal; and may, if the certificate is incomplete or incorrect, direct the same to be amended or to be sent back to the Judge for amendment. 4 Edw. VII. c. 10, s. 14.

Powers to
amend and
receive fur-
ther evidence.

45.—(1) The Divisional Court shall have all the powers and duties as to amendment and otherwise of the Judge appealed from, and full discretionary power to receive further evidence upon questions of fact, either by oral examination before the Court, or as may be directed.

(2) Such further evidence may be given without special leave as to matters which have occurred after the date of the judgment, order or decision complained of.

(3) Except as provided by subsection 2, upon an appeal from a judgment, order or decision given upon the merits at the trial or hearing, such further evidence shall be admitted on special grounds only and not without the special leave of the Court. Con. Rule 498.

46.—(1) On an appeal the Divisional Court may set aside the judgment and may direct any other judgment to be entered, or may direct a new trial to be had, and make such other order as to costs and otherwise as appears just. Order of Divisional Court on appeal. R.S.O. 1897, c. 55, s. 54.

(2) The decision of the Divisional Court shall be certified by the Registrar to the Clerk of the Court with whom the judgment or order appealed from was entered, who shall thereupon cause the same to be entered in the proper judgment or order book, and all subsequent proceedings may be taken thereupon, as if the decision had been given in the Court below. Con. Rule 818.

TARIFF OF COSTS.

47.—(1) The Board of County Judges appointed under *The Division Courts Act*, may frame a tariff of costs to be allowed to solicitors and counsel in respect of actions, matters and proceedings in the County and District Courts. Tariff of costs for counsel and solicitors. Rev. Stat. c. 60.

(2) The Board shall certify to the Judges authorized to make Rules under *The Judicature Act*, any tariff so framed, or any alteration thereof; and the Judges may approve, disallow or amend such tariff or alteration; and such tariff or alteration when approved, shall have the same force and effect as if made under that Act by the Judges approving the same. R.S.O. 1897, c. 55, s. 60. Rev. Stat. c. 51.

REPEAL.

48. *The County Courts Act* and all amendments thereto, and sections 5 to 21, and section 23 of *The Unorganized Territory Act*, and all amendments thereto and subsections 121f, 121g, and 121h of section 3 of the Act passed in the 9th year of His Majesty's reign, chaptered 27, are repealed. Repeal. Rev. Stat., cc. 55 and 109.

No. 140.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting the County Courts
and District Courts.

First Reading	day of	1910.
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act respecting Assignments and Preferences by
insolvent Persons.

SHORT TITLE, s. 1

INTERPRETATION, s. 2.

CONFESSIONS OF JUDGMENT, COGNOVITS, ETC., IN FRAUD OF CREDITORS TO BE VOID, s. 4.

ASSIGNMENTS, ETC., IN PREJUDICE OF CREDITORS TO BE VOID, s. 5.

ASSIGNMENTS FOR BENEFIT OF CREDITORS, ss. 6-9.

How claims are to rank, s. 10.

Substituted assignee, s. 11.

Appointment and rights of assignee, s. 12.

RECOVERY OF PROCEEDS WHERE PROPERTY SOLD, s. 13.

Assignments to take precedence of executions, s. 14.

Amendment by Court, s. 15.

Assignment to be registered and notice thereof published, ss. 16-19.

MEETING OF CREDITORS, ss. 20-22.

Voting, ss. 23, 24.

PROOF OF CLAIM, s. 25.

CONTESTATION ss. 26, 27.

ASSETS TO BE RETAINED IN PROVINCE, s. 28.

ACCOUNTS AND STATEMENT, s. 29.

SET OFF, s. 30.

DIVIDENDS AND DIVIDEND SHEET, ss. 31-33.

ASSIGNEE'S REMUNERATION, ss. 34, 35.

INSPECTOR'S REMUNERATION, s. 36.

EXAMINATION OF ASSIGNOR, ETC., ss. 37-40.

REPEAL, s. 41.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1 This Act may be cited as "*The Assignments and Preferences Act*." Short title.

2. In this Act,

Interpretation.

"Judge" shall mean a Judge of the County or District Court of the county or district in which the assignment is required to be registered. "Judge."

3. Where a Judge is disqualified to act in a matter arising under this Act, a Judge of the County or District Court of an adjoining county or district shall have jurisdiction to act in his place. Where judge disqualified.

FRAUDULENT JUDGMENTS AND ASSIGNMENTS.

Certain confessions of judgment to be void.

4. Every confession of judgment, *cognovit actionem* or warrant of attorney to confess judgment given by a person being at the time in insolvent circumstances or unable to pay his debts in full or knowing himself to be on the eve of insolvency, voluntarily or by collusion with a creditor with intent thereby to defeat, hinder, delay or prejudice his creditors wholly or in part or to give one or more of his creditors a preference over his other creditors or over any one or more of them, shall be null and void as against the creditors of the person giving the same and shall be ineffectual to support any judgment or execution. R.S.O. 1897, c. 147, s. 1.

Gifts, transfers, etc., made by insolvents which defeat or prejudice creditors to be void.

5.—(1) Subject to the provisions of section 6, every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes or securities, or of shares, dividends, premiums or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances, or is unable to pay his debts in full, or knows that he is on the eve of insolvency with intent to defeat, hinder, delay or prejudice his creditors, or any one or more of them, shall as against the creditor or creditors injured, delayed or prejudiced be null and void.

(2) Subject to the provisions of section 6 every such gift, conveyance, assignment or transfer, delivery over or payment made by a person being at the time in insolvent circumstances, or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, to or for a creditor with the intent to give such creditor an unjust preference over his other creditors or over any one or more of them shall, as against the creditor or creditors injured, delayed, prejudiced or postponed, be null and void.

(3) Subject to the provisions of section 6, if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall in and with respect to any action or proceeding which, within sixty days thereafter, is brought, had or taken to impeach or set aside such transaction, be presumed *prima facie* to have been made with the intent mentioned in subsection 2, and to be an unjust preference within the meaning hereof whether the same is made voluntarily or under pressure.

(4) Subject to the provisions of section 6, if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, if the debtor within sixty days after the transaction makes an assignment for the benefit of his creditors be presumed *prima facie* to have been made with the intent mentioned in subsection 2, and to be an unjust preference within the meaning hereof, whether the same be made voluntarily or under pressure.

(5) The word "creditor" in the fifth and sixth lines of subsection 2, in the second and third lines of subsection 3, and in the second and third lines of subsection 4, shall include any surety and the endorser of any promissory note or bill of exchange who would upon payment by him of the debt, promissory note or bill of exchange, in respect of which such suretyship was entered into or such endorsement was given become a creditor of the person giving the preference within the meaning of these subsections. R.S.O. 1897, c. 147, s. 2.

"Creditor" for certain purposes to include surety and endorser.

ASSIGNMENTS FOR GENERAL BENEFIT OF CREDITORS.

6—(1) Nothing in the next preceding section shall apply to an assignment made to the sheriff of the county or district in which the debtor resides or carries on business or with the consent of a majority of his creditors having claims of \$100 and upwards computed according to the provisions of section 24, to another assignee resident within Ontario, for the purpose of paying rateably and proportionately and without preference or priority all the creditors of the debtor their just debts; nor to any *bona fide* sale or payment made in the ordinary course of trade or calling to an innocent purchaser or person; nor to any payment of money to a creditor, nor to any *bona fide* conveyance, assignment, transfer or delivery over of any goods or property of any kind, which is made in consideration of a present actual *bona fide* payment in money, or by way of security for a present actual *bona fide* advance of money, or which is made in consideration of a present actual *bona fide* sale or delivery of goods or other property where the money paid, or the goods or other property sold or delivered bear a fair and reasonable relative value to the consideration therefor.

Assignments for benefit of creditors and *bona fide* sales, etc., protected.

(2) In the case of a valid sale of goods or other property, and payment or transfer of the consideration or part thereof by the purchaser to a creditor of the vendor, under circumstances which would render void such a payment or transfer by the debtor personally and directly, the payment

Transfer to creditor of consideration for sale invalid.

or transfer, even though valid as respects the purchaser, shall be void as respects the creditor to whom the same is made.

General assignment not in accordance with Act, when voidable.

(3) Every assignment for the general benefit of creditors, which is not void under section 5, but is not made to the sheriff, nor to any other person with the prescribed consent of creditors, shall be void as against a subsequent assignment which is in conformity with this Act, and shall be subject in other respects to the provisions thereof until and unless a subsequent assignment is executed in accordance therewith.

Security given up upon void payment to be returned.

(4) Where a payment has been made which is void under this Act, and any valuable security was given up in consideration of the payment, the creditor shall be entitled to have the security restored, or its value made good to him before, or as a condition of, the return of the payment.

(5) Nothing herein shall

(a) Affect *The Wages Act*, or prevent a debtor providing for payment of wages due by him in accordance with the provisions of that Act,

Payment of wages protected.

(b) Affect any payment of money to a creditor, where such creditor by reason or on account of such payment, has lost or been deprived of, or has in good faith given up, any valid security which he held for the payment of the debt so paid, unless the security is restored or its value made good to the creditor,

(c) Apply to the substitution in good faith of one security for another security for the same debt so far as the debtor's estate is not thereby lessened in value to the other creditors, or

Exchange of securities protected.

Certain assignments to be valid.

(d) Invalidate a security given to a creditor for a pre-existing debt where, by reason or on account of the giving of the security, an advance in money is made to the debtor by the creditor, in the *bona fide* belief that the advance will enable the debtor to continue his trade or business and to pay his debts in full. R.S.O. 1897, c. 147, s. 3.

Assignee must reside in the Province.

7. No person other than a permanent and *bona fide* resident of Ontario shall be assignee under an assignment within

the provisions of this Act, nor shall any assignee delegate his duties as assignee to or appoint as deputy any person who is not a permanent and *bona fide* resident of Ontario; and no charge shall be made or recoverable against the assignor or his estate for any services or other expenses of any such assignee, deputy or delegate of any assignee who is not a permanent and *bona fide* resident of Ontario. R.S.O. 1897, c. 147, s. 4.

8. Every assignment made under this Act, for the general benefit of creditors if the property is described in the words "all my personal property which may be seized and sold under execution and all my real estate, credits, and effects," or in words to the like effect, shall vest in the assignee all the real and personal estate, rights, property, credits, and effects, whether vested or contingent, belonging at the time to the assignment to the assignor, except such as are by law exempt from seizure or sale under execution, subject, however, as regards land, to the provisions of *The Registry Act* and *The Land Titles Act*. R.S.O. 1897, c. 147, s. 5.

Form of assignment for general benefit of creditors.

[As to the preferential lien of a landlord, see Cap. 170, sec. 34.]

9. Every assignment for the general benefit of creditors, whether it is or is not expressed to be made under or in pursuance of this Act, and whether the assignment does or does not include all the real and personal estate of the assignor, shall vest the estate, whether real or personal or partly real and partly personal, thereby assigned in the assignee therein named for the general benefit of creditors, and such assignment and the property thereby assigned shall be subject to all the provisions of this Act, and the same shall apply to the assignee named in such assignment. R.S.O. 1897, c. 147, s. 6.

All assignments for general benefit of creditors to be subject to this Act.

10. If an assignor executing an assignment under this Act for the general benefit of his creditors owes debts both individually and as a member of a partnership, or as a member of different partnerships, the claims shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other or others after all the creditors of such other estate or estates have been paid in full. R.S.O., 1897, c. 147, s. 7.

How claims are to rank where different estates.

11.—(1) A majority in number and value of the creditors who have proved claims to the amount of \$100 or upwards, may substitute for the sheriff, or for an assignee under an assignment to which subsection 3 of section 6 applies, a

Appointment of substituted assignee.

person residing in the county or district in which the assignor resided or carried on business at the time of the assignment.

(2) An assignee may be removed, and another substituted, or an additional assignee appointed by the Judge.

(3) Where an assignee dies a new assignee may be appointed in the manner provided by subsection 2. R.S.O. 1897, c. 147, s. 8 (1); 4 Edw. VII. c. 10, s. 33.

Estate to
vest in
substituted
assignee.

(4) Where a new or additional assignee is appointed the estate shall vest in him or in him jointly with his co-assignee without a conveyance or transfer, and he shall register a verified copy of the resolution of the creditors or of the order appointing him in the office in which the assignment was registered.

(5) A verified copy of the resolution or of the order may be registered in the proper registry or land titles office and the registration thereof shall have the same effect as the registration of a conveyance. R.S.O. 1897, c. 147, s. 8 (2).

RIGHTS OF ASSIGNEE.

Rights of
assignee.

12.—(1) Except as in this section is otherwise provided, the assignee shall have the exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors, or in violation of this Act.

Creditor may
proceed in
certain cases
if assignee
refuses.

(2) Where a creditor desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the estate, and the assignee under the authority of the creditors or inspectors refuses or neglects to take such proceeding after being required so to do, the creditor shall have the right to obtain an order of the Judge authorizing him to take the proceeding in the name of the assignee, but at his own expense and risk upon such terms and conditions as to indemnity to the assignee as the Judge may prescribe, and thereupon any benefit derived from the proceeding shall, to the extent of his claim and full costs, belong exclusively to the creditor instituting the same for his benefit, but if, before such order is obtained, the assignee signifies to the Judge his readiness to institute the proceeding for the benefit of the creditors, the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall belong to the estate. R.S.O. 1897, c. 147, s. 9.

13.—(1) In the case of a gift, conveyance, assignment or transfer of any property, real or personal, which is invalid against creditors, if the person to whom the gift, conveyance, assignment or transfer was made shall have sold or disposed of, realized or collected the property or any part thereof, the money or other proceeds may be seized or recovered in any action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the gift, conveyance, transfer, delivery or payment was made, and such right to seize and recover shall belong, not only to an assignee for the general benefit of the creditors of the debtor, but where there is no such assignment, to all creditors of the debtor.

Following
proceeds of
property
fraudulently
transferred.

(2) Where there is no assignment for the benefit of creditors, and the proceeds are of such a character as to be seizable under execution, they may be seized under the execution of any creditor, and shall be subject to the provisions of *The Creditors' Relief Act*.

Taking pro-
ceeds under
execution.

9 Edw. VII.
c. 48.

(3) Where there is no assignment for the benefit of creditors, and whether the proceeds are or are not of such a character as to be seizable under execution, an action may be brought therefor by a creditor, whether an execution creditor or not, on behalf of himself and all other creditors, or such other proceedings may be taken as may be necessary to render the proceeds available for the general benefit of the creditors.

Creditor suing
on behalf of
himself and
other credi-
tors.

(4) This section shall not apply as against innocent purchasers of the property. R.S.O. 1897, c. 147, s. 10.

Protection of
innocent
purchasers.

14. An assignment for the general benefit of creditors under this Act shall take precedence of attachments, garnishee orders, judgments, executions not completely executed by payment and orders appointing receivers by way of equitable execution subject to the lien, if any, of an execution creditor for his costs where there is but one execution in the sheriff's hands or to the lien, if any, for his costs of the creditor who has the first execution in the Sheriff's hands. 3 Edw. VII. c. 7, s. 29.

Assignments
to take
precedence of
attachments,
etc.

15. No advantage shall be obtained by any creditor by reason of any mistake, defect or imperfection in any assignment under this Act for the general benefit of creditors if the same can be amended or corrected, and any such mistake, defect or imperfection shall be amended by the Judge on the application of the assignee or of any creditor

Amendment
of assign-
ment by
judge.

of the assignor, and on such notice to other parties concerned as the Judge shall think reasonable, and the amendment, when made, shall have relation back to the date of the assignment, but not so as to prejudice the rights of innocent purchasers. R.S.O. 1897, c. 147, s. 12.

NOTICE AND REGISTRATION OF ASSIGNMENT.

Notice of assignment to be published.

16.—(1) A notice of the assignment shall forthwith after the delivery thereof to him or his assent thereto, be published by the assignee at least once in the *Ontario Gazette* and not less than twice in one newspaper having a general circulation in the county or district in which the property assigned is situate.

Assignment to be registered.

(2) The assignment or a copy thereof shall also within five days from the execution thereof be registered by the assignee, together with an affidavit of a witness thereto of the due execution of the assignment in the office of the clerk of the County or District Court of the county or district in which the assignor, if a resident in Ontario, resided at the time of the execution thereof, or if not a resident then in the office of the clerk of the County or District Court of the county or district where the personal property so assigned or where the principal part thereof is at the time of the execution of such assignment; and the clerk shall number and enter such assignments and endorse thereon the time of receiving the same, and the same shall be open for the inspection of all persons desiring to inspect the same.

Rev. Stat. c. 148.

(3) The clerk shall be entitled to the same fees for services as if the assignment had been registered under *The Bills of Sale and Chattel Mortgage Act*.

(4) For the purposes of subsection 2 the Provisional County of Haliburton shall be deemed part of the County of Victoria. R.S.O. 1897, c. 147, s. 13.

Penalty for neglecting publication or registration.

17.—(1) If the notice is not published as provided by the next preceding section, or if the assignment is not registered within five days from the delivery thereof to the assignee or his assent thereto, the assignee shall incur a penalty of \$10 for each and every day during which the default continues.

(2) The burden of proving the time of such delivery or assent shall be upon the assignee.

(3) Where the assignment is made to a sheriff, he shall not incur the penalty unless he has been paid or tendered the cost of advertising and of registering the assignment, nor shall he be bound to act under the assignment until his costs in that behalf are paid or tendered to him. R.S.O. 1897, c. 147, s. 14. Liability of sheriff.

18. If the assignment is not registered, or notice thereof is not published, the Judge may, upon the application of any person interested in the assignment, by order enforce the registration of the assignment or the publication of the notice. R.S.O. 1897, c. 147, s. 15. Compelling publication and registration.

(As to costs of order see 9 Edw. VII. c. 46, s. 2.)

19. The omission to publish or register as required by section 16 shall not, nor shall any irregularity in the publication or registration, invalidate the assignment. R.S.O. 1897, c. 147, s. 16. Assignment not to be invalidated by omission to publish, etc.

MEETINGS OF CREDITORS AND INSPECTORS.

20.—(1) It shall be the duty of the assignee immediately to inform himself, by reference to the assignor and his records of account, of the names and residences of the assignor's creditors, and within five days from the date of the assignment to call a meeting of the creditors for the appointment of inspectors and the giving of directions with reference to the disposal of the estate, by mailing prepaid and registered to every creditor known to him, a notice calling the meeting to be held in his office or some other convenient place to be named in the notice not later than twelve days after the mailing thereof, and by advertisement in the *Ontario Gazette*. Assignee to call meeting of creditors.

(2) All other meetings to be held shall be called in like manner. R.S.O. 1897, c. 147, s. 17.

21.—(1) The creditors at any meeting may appoint one or more inspectors who shall superintend and direct the proceedings of the assignee in the management and winding up of the estate and may also at any subsequent meeting for that purpose revoke the appointment of any inspector. Inspectors may be appointed.

(2) Where the appointment of an inspector is revoked or where an inspector dies, resigns his office or leaves Ontario, the creditors at any meeting may appoint another inspector to take his place.

(3) An inspector shall not directly or indirectly purchase any part of the stock-in-trade, debts or other assets of the assignor. (*See* 38 V. (Can.) c. 16, s. 35.)

Meeting of
creditors by
request of
majority
thereof.

22.—(1) In case of a request in writing signed by a majority of the creditors having claims duly proved of \$100 and upwards, computed according to the provisions of section 24, it shall be the duty of the assignee within two days after receiving such request to call a meeting of the creditors for a day not later than twelve days after he receives the request, and in case of default the assignee shall incur a penalty of \$25 for every day after the expiration of the time limited for calling the meeting until it is called.

Judge to give
directions in
case creditors
do not attend.

(2) In case a sufficient number of creditors do not attend the meeting mentioned in section 20, or fail to give directions with reference to the disposal of the estate, the Judge may give such directions as he may deem necessary for that purpose. R. S. O. 1897, c. 147, s. 18.

Voting at
meeting.

23. At any meeting of creditors the creditors may vote in person, or by proxy authorized in writing, but no creditor whose vote is disputed shall be entitled to vote until he has filed with the assignee an affidavit in proof of his claim stating the amount and nature thereof. R.S.O. 1897, c. 147, s. 19.

Scale of
votes.

24.—(1) Subject to the provisions of section 11, all questions at meetings of creditors shall be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:

For every claim of over \$100, and not exceeding \$200,	1 vote.
“ “ \$200 “ “ \$500	2 votes.
“ “ \$500 “ “ \$1000	3 votes.

For every additional \$1,000 or fraction thereof . . . 1 vote.

Upon claims
acquired
after
assignment.

(2) No person shall be entitled to vote on a claim acquired after the assignment unless the entire claim is acquired, but this shall not apply to persons acquiring notes, bills or other securities upon which they are liable.

Casting vote.

(3) In case of a tie the assignee or, if there are two assignees, the assignee nominated for that purpose by the creditors, or by the Judge if none has been nominated by the creditors, shall have a casting vote.

Creditors to
value securi-
ties.

(4) Every creditor in his proof of claim shall state whether he holds any security for his claim or any part

thereof; and if such security is on the estate of the assignor, or on the estate of a third person for whom the assignor is only secondarily liable, he shall put a specified value thereon and the assignee under the authority of the creditors may either consent to the creditor ranking for the claim after deducting such valuation, or he may require from the creditor an assignment of the security at an advance of ten per cent. upon the specified value to be paid out of the estate as soon as the assignee has realized such security; and in such case the difference between the value at which the security is retained and the amount of the gross claim of the creditor shall be the amount for which he shall rank and vote in respect of the estate.

(5) If a creditor's claim is based upon a negotiable instrument upon which the assignor is only indirectly or secondarily liable, and which is not mature or exigible, such creditor shall be considered to hold security within the meaning of this section, and shall put a value on the liability of the person primarily liable thereon as being his security for the payment thereof; but after the maturity of such liability and its non-payment, he shall be entitled to amend his claim and revalue his security. Right to re-value in certain cases.

(6) Where a person claiming to be entitled to rank on the estate holds security for his claim, or any part thereof, of such a nature that he is required by this Act to value the same, and he fails to value such security, the Judge, upon summary application by the assignee or by any other person interested in the estate, of which application at least three days' notice shall be given to the claimant, may order that, unless a specified value be placed on such security and notified in writing to the assignee within a time to be limited by the order, the claimant shall, in respect of the claim, or the part thereof for which the security is held, in case the security is held for part only of the claim, be wholly barred of any right to share in the proceeds of such estate. When creditor holding security fails to value same.

(7) If a specified value is not placed on such security, and notified in writing to the assignee according to the exigency of the order, or within such further time as the Judge may by subsequent order allow, the claim, or the part, as the case may be, shall be wholly barred as against such estate but without prejudice to the liability of the assignor therefor. R.S.O. 1897, c. 147, s. 20.

PROOF OF CLAIM.

25.—(1) Every person claiming to be entitled to rank Proof of claim.

on the estate shall furnish to the assignee particulars of his claim proved by affidavit and such vouchers as the nature of the case admits of.

Limiting
time for
proof of
claim.

(2) Where a person claiming to be entitled to rank on the estate does not within a reasonable time after receiving notice of the assignment and of the name and address of the assignee, furnish to the assignee satisfactory proofs of his claim as provided by this and the preceding sections, the Judge, upon summary application by the assignee or by any other person interested in the estate, of which application at least three days' notice shall be given to the claimant, may order that unless the claim be proved to the satisfaction of the Judge within a time to be limited by the order, the claimant shall no longer be deemed a creditor of the estate, and shall be wholly barred of any right to share in the proceeds thereof.

(3) If the claim is not so proved within the time so limited, or within such further time as the Judge may by subsequent order allow, the same shall be wholly barred, and the assignee shall be at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the assignor therefor.

Not to inter-
fere with Rev.
Stat. c. 129.

(4) The two next preceding subsections shall not interfere with the protection afforded to assignees, by section 38 of *The Trustee Act*.

Creditor may
prove claim
not due.

(5) A person whose claim has not accrued due shall nevertheless be entitled to prove under the assignment and to vote at meetings of creditors, but in ascertaining the amount of any such claim a deduction for interest shall be made for the time which has to run until the claim becomes due. R.S.O. 1897, c. 147, s. 21.

Contestation
of claim.

26.—(1) At any time after the assignee receives from any person claiming to be entitled to rank on the estate proof of his claim, notice of contestation of the claim may be served by the assignee upon the claimant.

(2) Within thirty days after the receipt of the notice, or within such further time as the Judge may allow, an action shall be brought by the claimant against the assignee to establish the claim, and a copy of the writ in the action or of the summons in case the action is brought in a Division Court shall be served on the assignee; and in default of such action being brought and writ or summons served within the time limited, the claim to rank on the estate shall be forever barred.

(3) The notice by the assignee shall contain the name and place of business of a solicitor, upon whom service of the writ or summons may be made; and service upon him shall be deemed sufficient service. R.S.O. 1897, c. 147, s. 22.

27.—(1) If the assignee is satisfied with the proof adduced in support of a claim, but the assignor disputes the same, the assignor shall do so by notice in writing to the assignee, stating the grounds upon which he disputes the claim; and such notice shall be given within ten days after the assignor is notified in writing by the assignee that he is satisfied with the proof adduced and not afterwards unless by leave of the Judge.

Procedure where assignee is satisfied with proof of claim and debtor desires to dispute same.

(2) If upon receiving such notice of dispute the assignee does not deem it proper to require the claimant to bring an action to establish his claim, he shall notify the assignor in writing of the fact, and the assignor may thereupon, and within ten days of his receiving such notice, apply to the Judge for an order requiring the assignee to serve a notice of contestation.

(3) The order shall be made only if after notice to the assignee the Judge is of opinion that there are good grounds for contesting the claim.

(4) If the assignor does not make such an application the decision of the assignee shall, as against him, be final and conclusive.

(5) If upon the application the claimant consents in writing, the Judge may, in a summary manner, decide the question of the validity of the claim.

(6) If an action is brought by the claimant against the assignee, the assignor may intervene at the trial, either personally or by counsel for the purpose of calling and examining or cross-questioning witnesses. R.S.O. 1897, c. 147, s. 23.

DISPOSAL OF ASSETS OF ESTATE.

28.—(1) No property or assets of an estate assigned under the provisions of this Act shall be removed out of Ontario without the order of the Judge, and the proceeds of the sale of any such property or assets, and all moneys received on account of any estate shall be deposited by the assignee in an incorporated bank within Ontario, and shall not be withdrawn or removed without the order of the Judge, except in payment of dividends and charges incidental to winding up the estate.

Assets not to be removed out of the Province and moneys to be deposited in a bank.

Penalty.

(2) An assignee or any person acting in his stead who violates the provisions of this section shall incur a penalty of \$500.

(3) One-half of the penalty shall go to the person suing therefor, and the other half shall belong to the estate.

(4) In default of payment of the penalty and all costs incurred in any action or proceeding for the recovery thereof, within the time limited by the judgment, the Court in which the action is brought may order that such assignee or person may be imprisoned for any period not exceeding thirty days, and such assignee or person shall be disqualified from acting as assignee of any estate while such default continues. R.S.O. 1897, c. 147, s. 24.

Accounts to be kept accessible.

29. Upon the expiration of one month from the first meeting of creditors, or as soon as may be thereafter, and afterwards from time to time at intervals of not more than three months, the assignee shall prepare, and keep constantly accessible to the creditors, accounts and statements of his doings as such assignee, and of the position of the estate. R.S.O. 1897, c. 147, s. 25.

Set-off.

30. The law of set-off shall apply to all claims made against the estate and also to all actions instituted by the assignee for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off shall be affected by the provisions of this or any other Act, respecting frauds or fraudulent preferences. R.S.O. 1897, c. 147, s. 26.

Dividends when to be paid.

31. As large a dividend as can with safety be paid, shall be paid by every assignee within twelve months from the date of the assignment and earlier if required by the inspectors; and thereafter a further dividend shall be paid every six months, and more frequently if required by the inspectors until the estate is wound up and disposed of. R.S.O. 1897, c. 147, s. 28.

Notice of dividend sheet.

32. So soon as a dividend sheet is prepared, notice thereof shall be given by registered letter to each creditor, inclosing an abstract of receipts and disbursements, shewing what interest has been received by the assignee for moneys in his hands, together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or has not been made therefor; and after the expiry of eight days from the date of mailing such notice, abstract and dividend sheet, dividends on all claims not

objected to within that period shall be paid. R.S.O. 1897, c. 147, s. 29.

33.—(1) The assignee may take the proceedings authorized by section 33 of *The Creditors Relief Act* to be taken by a sheriff, and in that case sections 33 and 34 of that Act shall apply *mutatis mutandis* to proceedings for the distribution of moneys and determination of claims arising under an assignment made under this Act, with the substitution of “assignee” for “sheriff”; but this section shall not relieve the assignee from mailing to each creditor the abstract and other information required by section 32 of this Act to be sent to creditors, so far as the same is not contained in the list sent by him under section 33 aforesaid.

Distributing moneys and determining claims as provided by 9 Edw. VII. c. 48.

(2) A Judge of the County or District Court of the county or district where the assignment is required to be registered shall be the Judge to whom applications under this section shall be made. R.S.O. 1897, c. 147, s. 30.

REMUNERATION OF ASSIGNEE AND INSPECTORS.

34. The assignee shall receive such remuneration as shall be voted to him by the creditors at any meeting called for the purpose after the first dividend sheet has been prepared, or by the inspectors, in case the creditors fail to provide therefor, subject to review by the Judge upon complaint of the assignee or of any creditor. R.S.O. 1897, c. 147, s. 31.

Remuneration of assignee.

35. Where the remuneration of the assignee has not been fixed under the next preceding section before the final dividend, the assignee may insert in the final dividend sheet, and retain as his remuneration, a sum not exceeding five per cent. of the cash receipts, subject to review by the Judge; but no application by the assignee to review the allowance shall be entertained unless the question of his remuneration has been brought before a meeting of creditors competent to decide the same before the preparation of the final dividend sheet. R.S.O. 1897, c. 147, s. 32.

Where remuneration not fixed before the final dividend.

36.—(1) An assignee shall not make any payment or allowance to an inspector beyond his actual and necessary travelling expenses in and about his duties as inspector, except under the authority of a resolution of the creditors passed at a meeting regularly called, fixing the amount thereof, and in the notice calling the meeting the fixing of the remuneration of the inspectors shall be specially mentioned as one of the subjects to be brought before the meeting.

Remuneration of inspectors.

(2) An inspector shall not be allowed more than four dollars a day besides actual travelling expenses. R.S.O. 1897, c. 147, s. 33.

EXAMINATION OF ASSIGNOR AND OTHERS.

Examination
of assignor
or employees.

37.—(1) Upon a resolution passed by a majority vote of the creditors present or represented at a meeting of creditors regularly called, or upon the written request of a majority of the inspectors, or upon an order made by the Judge, the assignee may examine upon oath before a Master, Local Master, Local Registrar, Deputy Clerk of the Crown of the High Court, Judge of the County or District Court, Special Examiner, Official Referee or any other person named in the order, the assignor or any person who is or has been his agent, clerk, servant, officer or employee of any kind touching the estate and effects of the assignor and as to the property and means he had when the earliest of his debts or liabilities existing at the date of the assignment was incurred and as to the property and means he still has of discharging his debts and liabilities and as to the disposal he has made of any property since contracting such debt or incurring such liability and as to any and what debts are owing to him, and the person examined may be required by the assignee to produce upon such examination any property, book, document or paper in his custody, power or control.

(2) Unless otherwise ordered the examination shall take place in the county or district within which the person to be examined resides.

(3) The Rules and procedure of the High Court as to the examination of a judgment debtor or any clerk or employee or former clerk or employee of a judgment debtor, shall, so far as may be, apply to an examination held under subsection 1. R.S.O. 1897, c. 147, ss. 34 and 35.

Examination
of persons
having cus-
tody of
property of
assignor.

38. Any person who has or is believed or suspected to have in his possession or power any book, document or paper of any kind relating in whole or in part to the assignor, his dealings or property and who refuses or fails to produce the same for the inspection of the assignee within four days after demand in writing by the assignee may by order of the Judge be examined before the Judge or any of the officers mentioned in section 37 touching such book, document or paper and he shall be subject to the same consequences in the case of neglect to attend or refusal to disclose the matters in respect of which he may be examined

or to make such production as are mentioned in section 40.
R.S.O. 1897, c. 147, s. 39.

39. If the assignor does not attend for examination and does not allege a sufficient excuse for not attending, or if attending, he refuses to disclose his property or his transactions respecting the same, or does not make satisfactory answers respecting the same, or if it appears from such examination that the assignor has concealed or made away with his property in order to defeat or defraud his creditors or any of them, the Judge may order the assignor to be committed to the common gaol of the county or district in which he resides, for any period not exceeding twelve months.
R.S.O. 1897, c. 147, s. 36.

When assignor does not attend or refuses to answer questions.

40. Any person other than the assignor liable to be examined shall be subject to the same consequences in case of neglect to attend or refusal to disclose the matters in respect of which he may be examined or to make production as a witness in an action in the High Court. R.S.O. 1897, c. 147, s. 38.

Compelling attendance and production of books.

41. Chapter 147 of the Revised Statues 1897, and all amendments thereto are repealed. Repeal.

No. 141.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Assignments and
Preferences by insolvent Persons.

First Reading	day of	1910.
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting the Registration of Partnerships.

SHORT TITLE, s. 1.

DECLARATIONS OF PARTNERSHIP TO
BE FILED, s. 2.

Form, s. 3.

When to be filed, s. 4.

Declaration where alteration
in partnership, s. 5.Allegations of declarations
not controvertible by the
signers, s. 6.

DECLARATION OF DISSOLUTION, s.

7.

Signers to be partners until a
new declaration filed, s. 8.DECLARATION BY PERSON TRADING
UNDER A BUSINESS NAME NOT
HIS OWN, s. 9.PENALTY FOR NOT FILING DECLARA-
TION, s. 10.REGISTRATION OF DECLARATIONS,
s. 11.

Furnishing books, s. 12.

ACT NOT TO APPLY TO CHEESE
MANUFACTURING COMPANIES,
s. 13.NOT TO AFFECT RIGHTS OF PART-
NERS INTER SE, s. 14.

REPEAL, s. 15.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Partnership Registra- Short title.*
tion Act."

2.—(1) Persons associated in partnership for trading, manufacturing or mining purposes shall cause to be filed with the Registrar of the registry division in which they carry or intend to carry on business, a declaration in writing, Form 1, signed by all the members of the partnership.

Persons in
partnership to
deliver a
declaration to
the Registrar.

(2) Where at the time of making the declaration any member is absent from the place where the partnership carries on or intends to carry on business, the declaration shall be signed by the members present in their own names, and also for any absent member, under his special authority to that effect, and such special authority shall at the same time be filed with the registrar and annexed to the declaration. R.S.O. 1897, c. 152, s. 1.

When some of
the parties
are absent.

3. The declaration shall contain the names, surnames, additions and residences of every partner, and the name under which they carry on or intend to carry on business and shall state also the time during which the partnership has

Requisites of
declaration.

subsisted, and shall also state that the persons therein named are the only members of the partnership. R.S.O. 1897, c. 152, s. 2.

Time of filing declaration.

4. The declaration shall be filed within six months next after the formation of the partnership. R.S.O. 1897, c. 152, s. 3.

Declaration where change in partnership.

5.—(1) A similar declaration shall in like manner be filed whenever any change takes place in the membership of the partnership, or in the name under which it carries on business, and every such declaration shall state the change in the membership of the partnership or in its name. R.S.O. 1897, c. 152, s. 4.

(2) The declaration shall be filed within six months after the change takes place. *New.*

Allegations in the declaration not to be controvertible by parties signing.

6. The statements made in any declaration shall not be controvertible by any person who has signed the same, nor as against any person not being a member of the partnership by any person who has signed the same, or who was really a member of the partnership therein mentioned at the time the declaration was made. R.S.O. 1897, c. 152, s. 5.

Declaration of dissolution of partnership.

7. Upon the dissolution of a partnership, any or all of the persons who composed the partnership may sign a declaration, Form 2, certifying the dissolution of the partnership. R.S.O. 1897, c. 152, s. 6.

Persons signing declaration to be deemed partners till new declaration is filed.

8.—(1) Until a new declaration is made and filed by him, or by his partners or any of them, no person who signed the declaration filed shall be deemed to have ceased to be a partner.

Liability of partners failing to declare the same.

(2) Nothing herein shall exempt from liability any person who, being a partner, fails to make and file the prescribed declaration, and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and if judgment is recovered against them, he may be sued on the original cause of action upon which the judgment was recovered. R.S.O. 1897, c. 152, s. 7.

A person whose business style indicates plurality to file a declaration.

9.—(1) Every person engaged in business for trading, manufacturing, or mining purposes, who is not associated in partnership with any other person, but uses as his business style some name or designation other than his own name, or who in such style uses his own name with the addi-

tion of "and Company," or some other word or phrase indicating a plurality of members in the firm, shall cause to be filed with the registrar of the registry division in which such person carries on or intends to carry on business, a declaration in writing, signed by such person. R.S.O. 1897, c. 152, s. 9.

(2) Such declaration shall contain the name, surname, addition, and residence of the person making the same, and the name under which he carries on or intends to carry on business, and shall also state that no other person is associated with him in partnership; and such declaration shall be filed within six months of the time when such name is first used. R.S.O. 1897, c. 152, s. 10. Form of declaration.

10. Every member of a partnership or other person required to file a declaration under the provisions of this Act who fails to comply with the requirements thereof shall incur a penalty of \$100, to be recovered in any Court of competent jurisdiction. R.S.O. 1897, c. 152, s. 11. Penalty for non-compliance.

(See *Fines, Penalties and Forfeitures*. 7 Edw. VII., c. 26, s. 1.)

11.—(1) The registrar shall enter the declarations in the order in which the same are received in a book to be by him kept for that purpose, which shall at all times during office hours be open to the inspection of the public without charge. Registrar to record declaration.

(2) For filing and entering each declaration the registrar shall be entitled to receive from the person filing the same fifty cents if it does not contain more than two hundred words, and at the rate of ten cents per hundred words for all above the number of two hundred. R.S.O. 1897, c. 152, s. 12. Registrar's fee for filing.

(3) The registrar shall keep two alphabetical index books of all declarations filed with him. R.S.O. 1897, c. 152, s. 13. Registrar to keep two indexes.

(4) In one of such books, hereinafter called the "Firm Index," the registrar shall enter in alphabetical order the names of the firms in respect to which declarations have been filed with him, and shall place opposite each entry the names of the persons composing the firm, and the date of the receipt by him of the declaration, in the manner shewn in Form 3. R.S.O. 1897, c. 152, s. 14. Form of "Firm Index."

Form of "Individual Index."

(5) In the second of such books, hereinafter called the "Individual Index," the registrar shall enter in alphabetical order the names of the respective members of each firm, and shall place opposite the entry the names of the firm of which each person is a member, and the date of the receipt of the declaration, in the manner shewn in Form 4. R.S.O. 1897, c. 152, s. 15.

Registrar's fees for certain services.

(6) The registrar shall be entitled for searches to the following fees and no more:

For searching in Firm Index—each firm ten cents;
For searching in Individual Index—each name ten cents;
For each certificate, when required—twenty-five cents.

R.S.O. 1897, c. 152, s. 16.

Who to furnish registry books.

12. The books required for the purposes of this Act shall be furnished by the treasurer of the municipality whose duty it is to furnish registry books, or in case of his default, by the registrar, in the same manner as other registry books. R.S.O. 1897, c. 152, s. 17.

Cheese manufacturing Cos. excepted.

13. This Act shall not apply to associations of individuals for the manufacture of butter or cheese and contributing produce from their dairies for that purpose. R.S.O. 1897, c. 152, s. 18.

Act not to affect rights of partners inter se.

14. Nothing in this Act shall affect the rights of partners with regard to each other. R.S.O. 1897, c. 152, s. 7, *part*.

Repeal.

15. Chapter 152 of the Revised Statutes, 1897, and all amendments thereto are repealed.

FORM 1.

DECLARATION OF PARTNERSHIP.

County or District) of
We of in (occu-
pation) and of in
(occupation), hereby certify

1. That we have carried on and intend to carry on trade and business as at in partnership, under the name of

2. That the said partnership has subsisted since the day of 19 .

3. And that we are and have been since the said day the only members of the said partnership.

Witness our hands at this day of 19 .

A. B.
C. D.

R.S.O. 1897, c. 152, Sched. A.

FORM 2.

DECLARATION OF DISSOLUTION OF PARTNERSHIP.

County (or District) of { I,
 formerly a member of the firm carrying on
 business as

at _____, in the _____ of _____, under
 the name of _____ do hereby certify that the said
 partnership was on the _____ day of _____ 19____, dissolved.

Witness my hand, at _____, the _____ day of
 _____, 19____.

A. B.

R.S.O. 1897, c. 152, Sched. B.

FORM 3.
FIRM INDEX.

NAME OF FIRM.	NAMES OF PERSONS COMPOSING THE FIRM.	DATE OF FILING DECLARATION.
Abbott, Black & Co..... Bernard, Green & Jones Cook (Thos.) & Co..... Dadson, William..... Dick & Co. Dow (Wm.) & Sons	George Abbott, John Black, Edward Cook..... John Bernard, Edward Green, John Jones..... Thomas Cook, James Wilson..... William Dadson, Thomas Jones, Robert Watson, William Wilberforce, James Johnson..... Richard Dick	10th February, 19—. 12th February, 19—. 14th February, 19—. 14th February, 19—. 15th May, 19—. 19th May, 19—.

R.S.O. 1897, c. 152, Sched. C.

FORM 4.
INDIVIDUAL INDEX.

NAME OF INDIVIDUAL.	NAME OF FIRM OF WHICH A MEMBER.	DATE OF FILING DECLARATION.
Abbott, George..... Black, John..... Bernard, John..... Cook, Edward..... Cook, Thomas..... Dadson, William..... Dick, Richard..... Dow, William.....	Abbott, Black & Co..... Abbott, Black & Co..... Bernard, Green & Jones..... Abbott, Black & Co..... Thomas Cook & Co..... William Dadson..... Dick & Co. Wm. Dow & Sons.....	10th February, 19—. 10th February, 19—. 12th February, 19—. 10th February, 19—. 14th February, 19—. 14th February, 19—. 15th May, 19—. 19th May, 19—.

R.S.O. 1897, c. 152, Sched. D.

No. 142.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting the Registration of
Partnerships.

First Reading	day of	1910.
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act respecting Limited Partnerships.

SHORT TITLE, s. 1.
 LIMITED PARTNERSHIPS MAY BE
 FORMED, s. 2.
 GENERAL AND SPECIAL PARTNERS,
 ss. 3-5.
 CERTIFICATE OF SUCH PARTNER-
 SHIP:
 Contents and form, ss. 6, 7.
 Where to be filed and fees, ss.
 8, 9.

Partnership not deemed form-
 ed until filed, s. 10.
 CERTIFICATES OF RENEWAL, s. 11.
 ALTERATIONS, WHEN DEEMED A
 DISSOLUTION, s. 12.
 PARTNERSHIP NAME, s. 13.
 LIABILITIES OF GENERAL AND
 SPECIAL PARTNERS, ss. 14-18.
 NO PREMATURE DISSOLUTION WITH-
 OUT NOTICE, s. 19.
 REPEAL, s. 20.

HIS MAJESTY, by and with the advice and consent
 of the Legislative Assembly of the Province of On-
 tario, enacts as follows:—

1. This Act may be cited as "*The Limited Partnership Act*." Short title.

2. A limited partnership for the transaction of any mer- Limited part-
nerships may
be formed.
 cantile, mechanical, manufacturing or other business within
 Ontario, except banking, the construction or operation of
 railways or the business of insurance may be formed by two
 or more persons, upon the terms, with the rights and powers,
 and subject to the conditions and liabilities hereinafter men-
 tioned. R.S.O. 1897, c. 151, s. 1.

3. The partnership may consist of one or more persons, Of whom to
consist.
 who shall be called general partners, and of one or more
 persons who contribute in actual cash payments a specific
 sum as capital to the common stock, who shall be called
 special partners. R.S.O. 1897, c. 151, s. 2.

4. General partners shall be jointly and severally respon- Liability of
general and
special part-
ners.
 sible as general partners are by law, but special partners
 shall not be liable for the debts of the partnership beyond
 the amounts by them contributed to the capital. R.S.O.
 1897, c. 151, s. 3.

General partners only to transact business, etc.

5. The general partners only shall be authorized to transact business and sign for the partnership, and to bind the same. R.S.O. 1897, c. 151, s. 4.

Certificate to be signed.

6. The persons desirous of forming such partnership shall make and each of them shall sign a certificate, Form 1, which shall contain—

Contents of.

- (a) The name under which the partnership business is to be carried on;
- (b) The general nature of the business intended to be carried on;
- (c) The names of all the general and special partners, distinguishing which are general and which are special partners, and their usual places of residence;
- (d) The amount of capital which each special partner has contributed;
- (e) The time when the partnership is to commence and the time at which it is to terminate. R.S.O. 1897, c. 151, s. 5.
- (f) The principal place of business of the partnership.

Execution of.

7. The certificate shall be signed by the persons forming the partnership, before a Notary Public, who shall certify to the execution of the same. R.S.O. 1897, c. 151, s. 6.

Where to be filed.

8. The certificate so signed and certified shall be filed in the office of the Clerk of the County or District Court of the county or district in which the principal place of business named in the certificate is situate, and shall be recorded by him at full length in a book to be kept for that purpose and open to public inspection. R.S.O. 1897, c. 151, s. 7.

Fees.

9. For filing and recording the certificate the Clerk shall be entitled to receive the sum of twenty-five cents, and shall also be entitled to receive from every person searching in the book where such certificate is so recorded the sum of ten cents for each search. R.S.O. 1897, c. 151, s. 8.

Partnership not formed until certificate filed.

10. No such partnership shall be deemed to have been formed until the certificate has been made, certified, and filed; and if any false statement is made in the certificate, all the members of the partnership shall be liable for all the engagements thereof as general partners. R.S.O. 1897, c. 151, s. 9.

11. Every renewal or continuance of a partnership beyond the time originally fixed for its duration, shall be certified, filed and recorded in the manner herein required for its original formation; and every partnership otherwise renewed or continued, shall be deemed a general partnership. R.S.O. 1897, c. 151, s. 10.

Certificates of continuance.

12. Every alteration made in the partnership name, in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other manner specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after any such alteration has been made shall be deemed a general partnership, unless renewed as a limited partnership, according to the provisions of the next preceding section. R.S.O. 1897, c. 151, s. 11.

What alterations to be deemed a dissolution.

13. The business of the partnership shall be conducted under a name in which the names of the general partners, or some or one of them, only shall be used; and if the name of a special partner is used therein with his privity, he shall be deemed a general partner. R.S.O. 1897, c. 151, s. 12.

Partnership name.

14. No part of the sum which a special partner has contributed to the capital shall be withdrawn by him, or paid or transferred to him as dividends, profits or otherwise, during the continuance of the partnership; but any partner may annually receive interest at a rate not exceeding five per cent. per annum on the sum so contributed by him, if the payment of such interest does not reduce the original amount of the capital; and if, after the payment of such interest, any profits remain to be divided, he may also receive his share of such profits. R.S.O. 1897, c. 151, s. 14.

Restrictions upon stock of special partners.

15. If by the payment of interest or profits to a special partner the original capital has been reduced, he shall be liable to restore the amount by which his share of the capital has been so reduced with interest. R.S.O. 1897, c. 151, s. 15.

When special partner liable to refund.

16. A special partner may from time to time examine into the state and progress of the partnership business, and may advise as to its management; but he shall not transact any business on account of the partnership, or be employed for that purpose as agent, or otherwise: and if he does so, he shall be deemed a general partner. R.S.O. 1897, c. 151, s. 16.

Privileges of special partners.

General partners liable to account.

17. The general partners shall be liable to account to each other and to the special partners for their management of the business in like manner as other partners. R.S.O. 1897, c. 151, s. 17.

Creditors preferred to special partners.

18. In case of the insolvency or bankruptcy of the partnership, a special partner shall not, under any circumstances, be allowed to claim as a creditor until the claims of all the other creditors of the partnership have been satisfied. R.S.O. 1897, c. 151, s. 18.

No premature dissolution without notice, etc.

19. No dissolution of such partnership by the acts of the parties shall take place before the time specified in the certificate of its formation or of its renewal, until a notice of such dissolution has been filed in the office in which the original certificate was filed and has been published once in each week, for three weeks, in a newspaper published in the county or district where the partnership has its principal place of business, and for the same time in the *Ontario Gazette*. R.S.O. 1897, c. 151, s. 19.

Repeal.

20. Chapter 151 of the Revised Statutes, 1897, and all amendments thereto are repealed.

FORM 1.

CERTIFICATE.

We, the undersigned, do hereby certify that we have entered into partnership under the name of (*B. D. & Co.*) as (*Grocers and Commission Merchants*), which firm consists of (*A. B.*) residing usually at _____, and (*C. D.*) residing usually at _____, as General Partners; and (*E. F.*) residing usually at _____, and (*G. H.*) residing usually at _____, as Special Partners. The said (*E. F.*) having contributed (\$4,000) and the said (*G. H.*) (\$8,000) to the Capital of the Partnership.

The principal place of business of the Partnership is at _____, The said Partnership is to commence on the _____ day of _____, 19____, and is to terminate on the _____ day of _____, 19____.

Dated this _____ day of _____, 19____.
(Signed,) _____
A. B.
C. D.
E. F.
G. H.

Signed in the presence of me,
L. M.
Notary Public.

R.S.O. 1897, c. 151, Sched.

No. 143.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Limited Partnerships.

First Reading	day of	1910
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting Agricultural Associations.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Agricultural Associations Act*." 6 Edw. VII. c. 17, s. 1. Short title.

2. In this Act

Interpreta-
tion.

(a) "Association" shall mean any one of the organizations referred to in sections 3 and 21. " Association-
tion."

(b) "Minister" shall mean the Minister of Agriculture. 6 Edw. VII. c. 17, s. 2. " Minister."

3.—(1) The following Associations, Societies and Organizations shall be or continue to be bodies corporate under the provisions of this Act:— Certain bodies
declared to be
corporations.

The Fruit Growers' Association of Ontario.
The Entomological Society of Ontario.
The Dairymen's Association of Eastern Ontario.
The Dairymen's Association of Western Ontario.
The Western Ontario Poultry Association.
The Eastern Ontario Poultry Association.
The Ontario Bee-keepers' Association.
The Ontario Agricultural and Experimental Union.
The Dominion Sheep Breeders' Association.
The Dominion Swine Breeders' Association.
The Dominion Cattle Breeders' Association.
The Canadian Horsemen's Association.
The Ontario Horse Breeders' Association.
The Ontario Vegetable Growers' Association.
The Gardeners' and Florists' Association.
The Ontario Corn Growers' Association.

(2) The name of the Canadian Horse Breeders' Association, incorporated under *The Agricultural and Arts Act*, is hereby changed to that of The Canadian Horsemen's Association. 6 Edw. VII. c. 17, s. 3; 8 Edw. VII. c. 25, s. 2; 9 Edw. VII. c. 26, s. 25.

Membership.

4. The membership of each Association shall consist of annual subscribers and the membership fee shall be fixed by by-law. 6 Edw. VII. c. 17, s. 4.

Constitution and by-laws.

5. Each Association shall have a constitution and by-laws under which the Association shall be conducted, and the constitution and by-laws, and any change, alteration or repeal thereof shall be submitted to and approved by the Minister before the same shall have force or effect. 6 Edw. VII. c. 17, s. 5.

Annual meeting.

6. Each Association shall hold an annual meeting at such time and place as may be determined by by-law. 6 Edw. VII. c. 17, s. 6.

Election of directors.

7. Each Association at its annual meeting shall elect a Board of Directors, the number of directors, their representation of certain districts or classes of members, and their mode of selection being determined by by-law. 6 Edw. VII. c. 17, s. 7.

Director need not be member of Association.

8. The members may elect as director a person not a member of the Association, but the person so elected must, within ten days, become a member, and he shall be entitled to act as director only after he has become a member of the Association. 6 Edw. VII. c. 17, s. 8.

Statements at annual meeting.

9. At each annual meeting the retiring officers shall present a full report of their proceedings, and of the proceedings of the Association, and a detailed statement of the receipts and expenditure for the previous year, and of the assets and liabilities, duly audited; a copy of the said report, and of each of the said statements of the receipts and expenditure, together with a list of the members and a list of the officers elected, and also such general information on matters of special interest to each Association that such Association has been able to obtain, shall be sent to the Minister within forty days after the holding of the annual meeting. 6 Edw. VII. c. 17, s. 9.

President and vice-president.

10.—(1) The directors shall, from among themselves, elect a President and one or more Vice-Presidents.

Secretary, Treasurer.

The directors shall, from among themselves or other-

wise, elect a Secretary and a Treasurer, or a Secretary-Treasurer. 6 Edw. VII. c. 17, s. 10.

(2) Except as otherwise provided for a majority of the Directors of the Association shall form a quorum. Quorum.

11. The directors shall have full power to act for and on behalf of the Association, and all grants of money and other funds of the Association shall be received and expended under their direction, subject to the by-laws and regulations of the Association. 6 Edw. VII. c. 17, s. 11. Powers of officers.

AUDIT OF ACCOUNTS.

12. The Minister may appoint a person who shall audit the accounts of any Association, and such auditor shall present a report of the result of his audit to the officers of the Association and also to the Minister. 6 Edw. VII. c. 17, s. 12. Auditing of accounts.

GENERAL PROVISIONS AS TO ELECTIONS.

13. The members of the Association may by by-law provide that only those members who have paid their subscriptions at least one week in advance of the annual meeting shall be qualified to vote at the annual meeting for the election of directors. 6 Edw. VII. c. 17, s. 13. Right of voting.

14. Except as otherwise providing, a vacancy occurring by the death or resignation, or failure to qualify as member, of any officer or director may be filled by the remaining officers of the Association; and it shall be the duty of such officers to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but in the event of the remaining officers being insufficient to form a quorum, or if, for any reason, a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in manner provided in the next section. 6 Edw. VII. c. 17, s. 14. Vacancies in offices.

15.—(1) In the event of an election of any directors of the Association not being held at the time or place directed by by-law or being for any reason illegal and void, then the persons in office at the time when such officers or directors should have been elected shall continue to be, and shall be deemed to be, the officers of such Association until their successors are legally appointed. Directors to continue until successors lawfully elected.

(2) In the event of any such non-election or illegal election, a special meeting of the members of the Association

shall, as soon as practicable, be called in the manner provided by this Act, for the election of such directors; and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be and be deemed to be the officers of such Association. 6 Edw. VII. c. 17, s. 15.

MEETING OF DIRECTORS.

Special
meeting of
directors.

16. A special meeting of the directors of any Association organized under this Act may be called by the president thereof, or, in his absence or on his neglect, by the vice-president, or, in the absence or on the neglect of the president and vice-president, then by any three members of the Association, of which meeting at least seven days' notice shall be given to each member. 6 Edw. VII. c. 17, s. 16.

SECURITY BY TREASURER.

Security to be
given by
treasurer.

17.—(1) The Treasurer of every Association before entering upon the duties of his office shall give such security, either by joint or several covenant with one or more sureties, or otherwise, as the Board of Directors may deem necessary, for the faithful performance of his duties, and especially for the duly accounting for and paying over all moneys which may come into his hands.

Duty of board
as to security.

(2) It shall be the duty of the board in each and every year to inquire into the sufficiency of the security given by such treasurer and to report thereon; and where the same treasurer for any Association is re-appointed from year to year his re-appointment shall not be considered as a new term of office, but as a continuation of the former appointment, and any bond or security given to the Association for the faithful performance of his duties under such reappointment shall continue valid as against the parties thereto. 6 Edw. VII. c. 17, s. 17.

(3) If the officers of an Association neglect to procure and maintain proper and sufficient security they shall be personally responsible for all funds of the Association in the possession of the treasurer.

Legislative
grant.

18. Each Association shall be entitled to receive from unappropriated moneys in the hands of the Treasurer of Ontario a specified sum to be placed in the estimates and voted by the Legislature for each year on the following conditions:—

- (a) That the number of *bona fide* members is at least fifty;
- (b) That the secretary of the Association shall, on or before the 1st day of September in each year, transmit to the Minister an affidavit, stating the number of members who have paid their subscriptions for the current year, and the total amount of such subscriptions;
- (c) That the general provisions of this Act applying to such Associations have been complied with;
- (d) That none of the funds of the Association, from whatever source derived, have been expended in a manner inconsistent with the purposes of organization of the said Association. 6 Edw. VII. c. 17, s. 18.

19. If an Association ceases for twelve consecutive months to do business as required by this Act and by its constitution, by-laws and rules, or if the Minister is satisfied, after an enquiry at which the Association was given due notice to appear, that the business of the Association is not being properly conducted, the Minister may declare the corporate powers of the Association forfeited. 6 Edw. VII. c. 17, s. 19. Forfeiture of powers for non-user.

WINTER FAIRS.

20. The Ontario Horticultural Exhibition, the Ontario Provincial Winter Fair and the Eastern Ontario Live Stock and Poultry Show shall be corporate bodies under this Act, and the Lieutenant-Governor in Council may provide that the sections of this Act as far as practicable shall apply to these bodies, and may prescribe such constitution, rules and regulations as are deemed necessary. 6 Edw. VII. c. 17, s. 20; 8 Edw. VII. c. 25, s. 1. Winter fairs incorporated.

INCORPORATION OF OTHER ASSOCIATIONS.

21. Upon the petition of any Association or Society not subject to the provisions of this Act, but formed for the purpose of advancing the interests of any branch of agriculture, being presented to the Lieutenant-Governor in Council, the Lieutenant-Governor may, by Order-in-Council, declare that the sections of this Act shall apply to the Association or Society so petitioning, and thereafter the said sections shall apply to such Association or Society in the same manner and to the same extent as if it had been incorporated under this Act. Admission of other societies.

(2) Every such Order-in-Council shall be published in the *Ontario Gazette* for two weeks following the date of its passing. 6 Edw. VII. c. 17, s. 21.

ADVISORY BOARD.

Advisory
board for live
stock.

22.—(1) An Advisory Board for Live Stock may be formed to advise the Minister regarding matters of interest to the live stock industry. The Lieutenant-Governor may by Order-in-Council direct how the Board shall be constituted and may prescribe the duties and powers of the Board.

Allowance for
expenses.

(2) Members of the Advisory Board shall receive an allowance for their time and for their necessary travelling expenses in attending meetings of the Board, or a Committee of the Board. 6 Edw. VII. c. 17, s. 22.

FARMERS' AND WOMEN'S INSTITUTES.

Farmers' and
Women's In-
stitutes.

23.—(1) The formation of Farmers' Institutes and of Women's Institutes for the purpose of disseminating information in regard to agriculture, and of improving domestic life shall be permitted under this Act, and the same shall constitute Associations under this Act.

(2) The Lieutenant-Governor in Council may, upon recommendation of the Minister, make rules and regulations providing for the number and location of the Farmers' Institutes and Women's Institutes, for the general guidance and direction of the same, and fixing the grants and conditions upon which the grants are to be paid. 6 Edw. VII. c. 17, s. 23.

Right of such Institutes to affiliate with a Public Library.
9 Edw. VII. c. 80, s. 16.

Repeal.

24. Chapter 19 of the Acts passed in the 6th year of His Majesty's reign and all amendments thereto are repealed.

No. 144.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Agricultural
Associations.

First Reading	day of	1910.
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Mr. DUFF.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act respecting Mortgages and Sales of Personal Property.

SHORT TITLE, s. 1.	AFFIDAVIT OF EXECUTOR, etc., s.
INTERPRETATION, s. 2.	14.
APPLICATION OF ACT, ss. 3, 4.	GENERAL AUTHORITY TO RENEW
CHattel MORTGAGES WHERE POS-	OR TAKE MORTGAGES, s. 15.
SESSION OF GOODS UN-	CONTRACTS TO GIVE MORTGAGES
CHANGED:	OR MAKE SALES, ss. 16, 17.
To be registered or void as	REGISTRATION, s. 18, 20.
against creditors, ss. 5-7.	WHEN MORTGAGED GOODS RE-
MORTGAGES OF GOODS TO SECURE	MOVED TO ANOTHER COUNTY
ADVANCES OR SUBTIES, s. 6.	OR DISTRICT, s. 19.
SALES OF GOODS WHERE POSSES-	RENEWAL OF MORTGAGES, s. 21.
SION UNCHANGED:	WHERE COUNTY OR DISTRICT
To be registered or void as	BOUNDARIES ARE ALTERED, s.
against creditors, s. 8.	22.
To operate from execution, s.	SUBSEQUENT POSSESSION NOT TO
9.	VALIDATE SALE OTHERWISE
Description in instrument, s.	VOID, s. 23.
10.	MORTGAGE TO SECURE BONDS OF
Act to extend to goods not	CORPORATIONS, s. 24-26
ready for delivery, s. 11.	PROOF OF REGISTRATION, s. 27.
AFFIDAVIT OF BONA FIDES MAY BE	DISCHARGE OF MORTGAGES, ss. 28,
MADE BY ONE OF TWO OR	29.
MORE MORTGAGEES, etc., s.	FEES, s. 30.
12.	Inspection of books, s. 31.
AUTHORITY TO BE FILED, s. 13.	STATISTICAL RETURNS, s. 32.
	REPEAL, s. 33.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Bills of Sale and Chat- Short title.*
tel Mortgage Act." R.S.O. 1897, c. 148, s. 1.

2. In this Act,

Interpreta-
tion.

(a) "Actual and continued change of possession" shall "Actual and
mean such change of possession as is open, and continued
reasonably sufficient to afford public notice change of
thereof. R.S.O. 1897, c. 148, s. 39. possession."

"Creditors."

(b) "Creditors" shall include creditors of the mortgagor or bargainor suing on behalf of themselves and other creditors, an assignee in insolvency of a mortgagor or bargainor and an assignee for the general benefit of creditors, as well as creditors having executions against the goods and chattels of the mortgagor or bargainor in the hands of a Sheriff or other officer. R.S.O. 1897, c. 148, s. 38.

"Mortgage."

(c) "Mortgage" shall include a conveyance intended to operate as a mortgage. *New.*

"Rolling Stock."

(d) "Rolling stock" shall mean and include any locomotive, engine, motor car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement on its wheels, over or upon the rails or tracks of a railway. *New.*

Act not to apply to assignment for benefit of creditors.

3. This Act, except section 32, shall not apply to an assignment for the general benefit of creditors to which *The Assignments and Preferences Act* applies. *New.*

Act not to apply to mortgages of vessels registered.

4. This Act shall not apply to mortgages of vessels registered under the provisions of any Act in that behalf. R.S.O. 1897, c. 148, s. 34.

EFFECT OF REGISTERING OR OMITTING TO REGISTER.

Mortgages of goods not attended with change of possession, to be registered.

5. Every mortgage of goods and chattels in Ontario, which is not accompanied by an immediate delivery and an actual and continued change of possession of the things mortgaged, or a true copy thereof, shall be registered as hereinafter provided, together with

(a) The affidavit of an attesting witness thereto of the due execution of such mortgage, or of the due execution of the mortgage of which the copy filed purports to be a copy, which affidavit shall also state the date of the execution of the mortgage, and

Contents of affidavit of bona fides.

(b) The affidavit of the mortgagee that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that the mortgage was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for

the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor, or of preventing the creditors of such mortgagor from obtaining payment of any claim against him. R.S.O. 1897, c. 148, ss. 2, 3.

6.—(1) A mortgage of goods and chattels made

- (a) To secure the mortgagee for advances made in pursuance of an agreement in writing to make future advances for the purpose of enabling the borrower to enter into or to carry on business with such advances, the time of repayment thereof not being longer than one year from the making of the agreement; or Mortgage to secure future advances or endorsements.
- (b) To secure the mortgagee against the endorsement of any bill of exchange or promissory note or other liability by him incurred for the mortgagor, such liability not extending for a longer time than one year from the date of the mortgage,
may be registered in the manner prescribed by this Act if accompanied by
- (c) The affidavit of an attesting witness to the execution thereof, and,
- (d) The affidavit of the mortgagee stating that the mortgage truly sets forth the agreement and truly states the extent and amount of the advances intended to be made or liability intended to be created by the agreement and covered by the mortgage, and that the mortgage is entered into in good faith and for the express purpose of securing the mortgagee repayment of his advances or against the liability intended to be created, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor nor to prevent such creditors from recovering any claims which they may have against the mortgagor. R.S.O. 1897, c. 148, ss. 7 and 8.

7. If the mortgage and affidavits are not registered as by this Act provided, the mortgage shall be absolutely null and void as against creditors of the mortgagor, and as against subsequent purchasers or mortgagees in good faith for valuable consideration. R.S.O. 1897, c. 148, s. 5. Effect of non-registration.

Sale of goods not attended with delivery to be registered.

8. Every sale of goods and chattels, not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under the provisions of this Act, and such conveyance or a true copy thereof accompanied by an affidavit of an attesting witness thereto of the due execution of the conveyance, and an affidavit of the bargainee that the sale is *bona fide* and for good consideration, as set forth in the conveyance, and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor, shall be registered, as hereinafter provided, otherwise the sale shall be absolutely null and void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. R.S.O. 1897, c. 148, s. 6.

When mortgage to take effect.

9. Every such mortgage or conveyance shall operate and take effect upon, from and after the day and time of the execution thereof. R.S.O. 1897, c. 148, s. 4.

Manner of describing property in mortgages, etc.

10. Every mortgage and every conveyance or agreement required to be registered under this Act shall contain such sufficient and full description of the goods and chattels that the same may be thereby readily and easily known and distinguished. R.S.O. 1897, c. 148, s. 32.

Mortgages, etc., of goods not in possession of mortgagor.

11. This Act shall extend to a mortgage or sale of goods and chattels, which may not be the property of, or in the possession, custody or control of the mortgagor or bargainor or any person on his behalf at the time of the making of the mortgage or sale, and notwithstanding that such goods or chattels may be intended to be delivered at some future time, or that the same may not at the time of the making of the mortgage or sale be actually procured or provided, or fit or ready for delivery, or that some act may be required for the making or completing of such goods and chattels, or rendering the same fit for delivery. R.S.O. 1897, c. 148, s. 37.

Affidavits of bona fides of bona fides and on renewal of mortgage.

12.—(1) Every affidavit of *bona fides* required by this Act and every affidavit required upon the renewal of a chattel mortgage may be made by one of two or more bargainees or mortgagees, or by his or their agent if aware of all the circumstances and properly authorized in writing to take the conveyance or to take or renew the mortgage, or, in the case provided for by section 6, to make the agreement and to take the mortgage.

In the case of a corporation.

(2) If the mortgage or conveyance is made to a corporation the affidavit may be made by the president, vice-presi-

dent, manager, assistant manager, secretary, or treasurer, or by any other officer or agent thereof authorized to do so by resolution of the directors.

(3) Where the affidavit is made by the agent of the mortgagee or bargainee or by an officer or agent of a corporation it shall state that the deponent is aware of all the circumstances connected with the mortgage or conveyance, and has personal knowledge of the facts deposed to. 3 Edw. VII. c. 7, s. 30. R.S.O. 1897, c. 148, ss. 2, 3, 7 and 8.

Affidavits made by agents or officers.

13. The authority in writing referred to in the next preceding section, or a copy of such authority shall be attached to and filed with the mortgage or conveyance. R.S.O. 1897, c. 148, s. 9.

Agent's authority to be attached to mortgage.

14. Any affidavit by this Act required to be made by the mortgagee or by the bargainee may in the case of his death be made by any of his next of kin or by his executor or administrator, or, if the mortgage has been assigned, by his assignee. *New.*

Affidavit of executor, administrator, next of kin, or assignee.

15. An authority to take a conveyance or to take or renew a mortgage may be a general one to take all or any conveyances to the bargainee, or to take and renew all or any mortgages to the mortgagee. R.S.O. 1897, c. 148, s. 31.

General authority to take or renew mortgages.

CONTRACTS TO GIVE MORTGAGES, ETC.

16. Every covenant, promise or agreement to make, execute or give a mortgage of goods and chattels shall be in writing, and shall be deemed to be a mortgage within the meaning of this Act. R.S.O. 1897, c. 148, s. 11.

Contract to give a chattel mortgage to be deemed a mortgage.

17. Every covenant, promise or agreement to make a sale of goods and chattels shall be in writing and shall be deemed to be a sale of goods and chattels within the meaning of this Act. R.S.O. 1897, c. 148, s. 12.

Contract to make a sale to be deemed a sale.

REGISTRATION.

18.—(1) Except in the case of the Provisional County of Haliburton the instruments mentioned in the preceding sections shall be registered in the office of the clerk of the County or District Court of the county or district in which the property mortgaged or sold is at the time of the execution thereof.

Instruments to be registered in county or district court clerk's office.

(2) Where the property is situate in the Provisional County of Haliburton the instrument shall be registered in

Registration in provisional county of Haliburton.

the office of the clerk of the first division court of the provisional county.

Limitation of
time for
registration.

(3) In the case of a county the instrument shall be registered within five days from the execution thereof.

(4) In the case of the Provisional County of Haliburton and of a district the instrument shall be registered within ten days from the execution thereof.

(5) The clerk shall file the instrument and endorse thereon the time of receiving it. R.S.O. 1897, c. 148, s. 15; 62 V. 2, c. 14, s. 13.

Procedure
when mort-
gaged goods
are removed.

19. In the event of the permanent removal of the goods and chattels from the county, provisional county or district in which the goods and chattels were at the time of the execution of the mortgage, to another county, provisional county or district, before the payment and discharge of the mortgage, a copy of the mortgage, and of the affidavits, documents, instruments and statements relating thereto, certified under the hand of the Clerk in whose office it was registered, and under the seal of the Court, shall be filed with the proper officer as mentioned in section 18, of the county, provisional county or district to which the goods and chattels are removed within two months from such removal, otherwise the mortgage shall be null and void as against creditors of the mortgagor and as against subsequent purchasers and mortgagees in good faith for valuable consideration. R.S.O. 1897, c. 148, s. 17.

Manner of
registration.

20. The Clerk shall number every instrument or copy filed in his office, and shall enter in alphabetical order in a book to be provided by him the names of all the parties thereto, with the number indorsed thereon opposite to each name, and such entry shall be repeated alphabetically under the name of every party thereto. R.S.O. 1897, c. 148, s. 16.

RENEWAL OF MORTGAGES.

Statement of
amount due to
be registered
within one
year from
registration.

21.—(1) Except as provided in subsection 2 and subject to the provisions of section 24, every mortgage registered in pursuance of this Act shall cease to be valid, as against the creditors of the person making the same and as against subsequent purchasers and mortgagees in good faith for valuable consideration, after the expiration of one year from the day of the registration thereof, unless, within thirty days next preceding the expiration of the said term of one year, a statement, Form 1, exhibiting the interest of the mortgagee, his

executors, administrators or assigns in the mortgaged property, and showing the amount still due for principal and interest thereon, and all payments made on account thereof, is registered in the proper office, as mentioned in section 18, of the county, provisional county or district in which the mortgage was registered, with an affidavit of the mortgagee, that the statement is true, and that the mortgage has not been kept on foot for any fraudulent purpose. R.S.O. 1897, c. 148, s. 18.

(2) Where there has been a permanent removal of the goods and chattels as mentioned in section 19, and a certified copy of the mortgage has been registered as required by that section, the statement and affidavit shall be registered in the office in which such certified copy is registered, and the period of one year shall be reckoned from the date of the registration of such certified copy.

Case of permanent removal of goods.

(3) Where the two months mentioned in section 19 have not expired when the period of one year mentioned in subsection 1 expires and a certified copy of the mortgage has not been registered as provided by section 19, the statement and affidavit may be registered in the office in which the mortgage was registered.

(4) If any *bona fide* error or mistake is made in the statement, either by the omission to give any credit or by any miscalculation in the computation of interest or otherwise, the statement and the mortgage therein referred to shall not be invalidated if the mortgagee, his executors, administrators or assigns within two weeks after the discovery of the error or mistake registers an amended statement and affidavit referring to the former statement and clearly pointing out the error or mistake therein and correcting the same.

Proviso where error or mistake made in statement.

(5) If before the registration of such amended statement and affidavit any creditor or purchaser or mortgagee in good faith for valuable consideration has made any *bona fide* advance of money or given any valuable consideration to the mortgagor, or has incurred any costs in proceedings taken on the faith of the amount due on the mortgage being as stated in the renewal statement and affidavit as first registered, the mortgage as to the amount so advanced or the valuable consideration given or costs incurred by such creditor, purchaser or mortgagee, shall, as against such creditor, purchaser or mortgagee, stand good only for the amount mentioned in the renewal statement and affidavit first registered. R.S.O. 1897, c. 148, s. 19.

Advances made in good faith protected.

Manner of registering and entering affidavit and statement.

(6) The statement and affidavit shall be deemed one instrument, and shall be registered and entered as provided by section 20. R.S.O. 1897, c. 148, s. 20.

Statement to be registered annually.

(7) Another statement in accordance with the provisions of subsection 1, verified as required by that subsection, shall be registered in the proper office, according to section 18 or subsection 2 of this section, as the case may be, within thirty days next preceding the expiration of one year from the day of the registration of the statement required by subsection 1, otherwise such mortgage shall cease to be valid as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith for valuable consideration, and so on from year to year, that is to say, another verified statement shall be registered within thirty days next preceding the expiration of one year from the day of the registration of the former statement, otherwise such mortgage shall cease to be valid as aforesaid. R.S.O. 1897, c. 148, s. 21.

By whom affidavits on renewals may be made.

(8) If the affidavit is made by an assignee, or by any of his next of kin, or by his executor or administrator, the assignment or the several assignments through which he claims shall be registered with the statement and affidavit, unless the same have been already registered.

(9) Subsection 8 shall not apply to an assignment for the benefit of creditors under *The Assignments and Preferences Act*, or any other Act of Ontario or of Canada relating to assignments for the benefit of creditors if such assignment be referred to in the statement, and notice thereof has been given in manner required by law. R.S.O. 1897, c. 148, s. 22.

Mortgages where county or district boundaries altered.

22. Where a new county or district is formed, or territory is added to a county or district, every mortgage which under the provisions of this Act would otherwise require to be renewed in the county or district of which the territory forming or added to the new county or district was part, shall be renewed in the office of the proper officer of the county or district so formed or to which such territory is added, and upon such renewal a copy of the mortgage, certified under the hand of the officer in whose office it was registered and the seal of the court, shall be registered with the renewal statement and affidavit. R.S.O. 1897, c. 148, s. 35.

SUBSEQUENT TAKING POSSESSION.

Subsequent possession not to validate mortgage or sale otherwise void.

23. A mortgage or sale declared by this Act to be void or which under the provisions of section 21 has ceased to be valid as against creditors and subsequent purchasers or mort-

gagees shall not by the subsequent taking of possession of the goods and chattels mortgaged or sold by the mortgagee or bargainee be thereby made valid as against persons who became creditors, purchasers, or mortgagees before such taking of possession. R.S.O. 1897, c. 148, s. 40.

MORTGAGES TO SECURE BONDS, ETC., OF CORPORATIONS,

24.—(1) In the case of a mortgage of goods and chattels made by any incorporated company to a bondholder, or to a trustee, for the purpose of securing the bonds or debentures of such company, it shall be sufficient if the affidavit of *bona fides* is to the effect that the mortgage was executed in good faith and for the express purpose of securing the payment of the bonds or debentures referred to therein, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagors, or of preventing the creditors of such mortgagors from obtaining payment of any claim against them. R.S.O. 1897, c. 148, s. 23 (1); 4 Edw. VII. c. 10, s. 36.

Affidavits of bona fides where mortgage given by company to secure bonds or debentures.

(2) Where the head office of the company is not within Ontario, the mortgage may be registered within thirty days instead of five days, as provided by section 18.

Time for filing mortgage where head office of company not in Ontario.

(3) Any such mortgage may be renewed in the manner and with the effect provided by section 21 by the filing of a statement by the mortgagee or one of the mortgagees exhibiting the interest of the mortgagee or mortgagees in the property claimed by virtue of the mortgage, and showing the amount of the bond or debenture debt which the same was made to secure, and showing all payments on account thereof which to the best of the information and belief of the person making such statement, have been made, or of which he is aware or has been informed, together with an affidavit of the person making such statement, that the statement is true to the best of his knowledge, information and belief, and that the mortgage has not been kept on foot for any fraudulent purpose, and such statement shall be filed instead of the statement required by section 21.

Renewal of mortgages.

(4) Where the mortgage is made as a security for debentures and the by-law authorizing the issue of the debentures, as a security for which the mortgage was made, or a copy thereof, certified under the hand of the president or vice-president and secretary of the company and verified by an affidavit thereto attached or endorsed thereon, and having the corporate seal attached thereto, is registered with the mortgage, it shall not be necessary to renew the mortgage, but the same shall in such case continue to be as valid as if it had been duly renewed as in this Act provided.

Renewal of mortgages given to secure debentures of companies.

(5) The next preceding subsection shall apply to every such mortgage made and registered after the 5th day of May, 1894, but nothing herein shall affect any accrued rights or any litigation pending on the 13th day of April, 1897. R.S.O. 1897, c. 148, s. 23 (2-6).

Mortgage of rolling stock to be filed in office of Provincial Secretary.

25.—(1) In the case of a mortgage securing bonds made by an incorporated company on rolling stock owned by it, it shall be sufficient for the purposes of this Act if the mortgage or a copy thereof and the affidavit in subsection 1 of the next preceding section referred to be filed in the office of the Provincial Secretary within the time limited by this Act for registering a mortgage to secure bonds or debentures of an incorporated company.

(2) The office of the Provincial Secretary shall be the place for filing the renewal statements of any such mortgage of rolling stock where renewal thereof is necessary under this Act.

(3) Subsections 1 and 2 shall apply to any such mortgage on rolling stock heretofore made, if the same has been filed as therein provided. 3 Edw. VII. c. 7, s. 60.

Mortgage to secure bonds, etc., on leased rolling stock.

26.—(1) In the case of a mortgage, hypothec or other instrument made by an incorporated company securing bonds, debentures, notes or other securities on any rolling stock which is subject to any lease, conditional sale or bailment to a railway company, the same or a copy thereof may be filed in the office of the Provincial Secretary within 21 days from the execution thereof, and if so filed shall be as valid as against creditors of such company and subsequent purchasers as if the same had been registered pursuant to the provisions of this Act.

(2) Notice of the filing shall forthwith thereafter be given in the *Ontario Gazette*. (See 6 Edw. VII. c. 38, s. 7, (Dom.): 8 Edw. VII. c. 33, ss. 41 and 42.

As to mortgages made before 14th April, 1908.

(3) In case any such mortgage, hypothec or other instrument made before the 14th day of April, 1908, or a copy thereof had been filed in the office of the Provincial Secretary within ninety days from that date, the same shall be as valid as against creditors of such company and purchasers or mortgagees, becoming such creditors, purchasers or mortgagees subsequent to that date as if it had been registered pursuant to the provisions of this Act.

PROOF OF REGISTRATION.

27. A copy of any instrument or document registered under this Act and of any endorsement thereon certified under the hand of the officer with whom the same is registered and under the seal of the court or where the same is filed in the office of the Provincial Secretary under the hand of the Provincial Secretary or Assistant Provincial Secretary, shall be received as evidence by all courts that the instrument or document was received and registered or filed according to the endorsement thereon. R.S.O. 1897, c. 148, s. 24.

Evidence by
certified copy.

DISCHARGE OF MORTGAGES.

28. A mortgage registered under this Act may be discharged by registering in the office in which the mortgage is registered a certificate, Form 2, signed by the mortgagee, his executors, administrators or assigns. R.S.O. 1897, c. 148, s. 25.

Certificates
of discharge
of chattel
mortgages.

29.—(1) The officer with whom the mortgage is registered upon receiving such certificate, proved by the affidavit of a subscribing witness, shall, at each place where the number of the mortgage has been entered, with the name of any of the parties thereto, in the book kept by him under section 20, or wherever otherwise in such book the mortgage has been entered, write the words “Discharged by Certificate Number (*stating the number of the certificate*),” and to such entry the officer shall subscribe his name, and he shall also endorse the fact of the discharge upon the instrument discharged, and shall subscribe his name to the endorsement. R.S.O. 1897, c. 148, s. 26.

Entering
certificates of
discharge.

(2) Where a mortgage has been renewed under section 21, the endorsement or entries required by the next preceding subsection need only be made upon the statement and affidavit filed on the last renewal, and at the entries of the statement and affidavit in such book. R.S.O. 1897, c. 148, s. 27.

Entries of
renewal.

(3) A certificate of discharge by an assignee shall not be registered unless and until the assignment is registered.

(4) The assignment shall, upon proof by the affidavit of a subscribing witness, be registered, numbered and entered in such book, in the same manner as a mortgage. R.S.O. 1897, c. 148, s. 28.

Entry of as-
signment of
mortgages.

FEES.

30. For services under this Act the officers shall be entitled to the following fees: Fees.

- (a) For registering each instrument or copy or renewal statement, fifty cents;

- (b) For registering an assignment, twenty-five cents;
- (c) For registering a certificate of discharge, twenty-five cents;
- (d) For a general search, twenty-five cents;
- (e) For production and inspection of any instrument or document, ten cents;
- (f) For copies of any instrument or document and certifying the same, ten cents for every hundred words;
- (g) For extracts, whether made by the person making the search or by the officer, ten cents for every hundred words. R.S.O. 1897, c. 148, s. 29.

INSPECTION OF BOOKS AND INSTRUMENTS.

Inspection of
books in
County Court
office.

31.—(1) Every person shall on payment of the proper fees have access to and be entitled to inspect the books containing records or entries of mortgages, conveyances or assignments registered.

(2) A person desiring such access or inspection shall not be required, as a condition to his right thereto, to furnish the names of the persons in respect of whom such access or inspection is sought.

(3) The Clerk shall upon demand produce for inspection any such mortgage, conveyance, assignment or copy thereof registered in his office. R.S.O. 1897, c. 148, s. 36.

STATISTICAL RETURNS.

Returns of
chattel
mortgages,
etc., to be
made by
clerks.

32.—(1) Every officer with whom instruments are required to be registered under the provisions of this Act shall, on or before the 15th day of January in each year, transmit to the Minister of Agriculture a return which shall set out:

- (a) The number of undischarged mortgages on record in his office on the 1st day of January in the year next preceding that in which the return is made;
- (b) The number of mortgages and renewals, the number of discharges, and the number of assign-

ments for the benefit of creditors registered during the year following the said 1st day of January; and

- (c) The number of undischarged mortgages on record in his office on the 31st day of December in said year.
- (2) The return shall not include instruments which have lapsed by reason of non-renewal.
- (3) The occupations or callings of the mortgagors or assignors as stated in the instruments shall be classified and the return shall show the aggregate sums purporting to be secured by the mortgages in each class.
- (4) The return shall, where practicable, distinguish mortgages to secure endorsements or future advances from mortgages to secure existing debts or present advances. R.S.O. 1897, c. 148, s. 42.

33. Chapter 148 of The Revised Statutes, 1897, except ^{Repeal.} section 41, and all amendments thereto, are repealed.

FORM 1.

RENEWAL STATEMENT.

Statement exhibiting the interest of _____ in the property mentioned in the mortgage dated the _____ day of _____ 19____, made between _____ of _____ of the one part, and _____ of _____ of the other part, and registered in the office of the Clerk of the _____ Court of the _____ of _____, on the _____ day of _____ 19____, and of the amount due for principal and interest thereon, and of all payments made on account thereof.

The said _____, is still the mortgagee of the said property, and has not assigned the said mortgage (or the said _____ is the assignee of the said mortgage by virtue of an assignment thereof from the said _____ to him, dated the _____ day of _____ 19____), (or as the case may be).

No payments have been made on account of the said mortgage (or the following payments, and no other, have been made on account of the said mortgage:

19____, January 1, Cash received.....\$100.00)

The amount still due for principal and interest on the said mortgage is the sum of \$ _____ made up as follows: (*here give the items*).

A. B.,

(*Signature of Mortgagee or Assignee.*)

County (or District) of
To wit,

I, _____ of _____ in the _____ of the
of _____ the mortgagee named in the mortgage men-
tioned in the foregoing (or annexed) statement (or assignee of the
mortgagee named in the mortgage mentioned in the foregoing [or
annexed] statement) (*as the case may be*), make oath and say:

1. That the foregoing (or annexed) statement is true.
2. That the mortgage mentioned in the said statement has not
been kept on foot for any fraudulent purpose.

A. B.

Sworn before me at the _____
of _____ in the _____
of _____, this _____
day of _____ 19 _____.
E. F.,
A Commissioner, etc.

R.S.O. 1897, c. 148, Sched. B.

FORM 2.

DISCHARGE OF MORTGAGE.

To the Clerk of the _____ Court of the _____ of _____

I, _____ of _____ do certify that _____ has satisfied all
money due, or to grow due on a certain mortgage made by
to _____, which mortgage bears date the
day of _____ 19 ____, and was registered
(or in case the mortgage has been renewed was last renewed), in
the office of the Clerk of the _____ Court of the _____ of _____
, on the _____ day of _____ 19 ____, as
No. _____. (here mention the date of registration of each assign-
ment thereof, and the names of the parties, or mention that such
mortgage has not been assigned, as the fact may be); and that I
am the person entitled by law to receive the money, and that such
mortgage is therefore discharged.

Witness my hand, this _____ day of _____ 19 ____.

Witness, _____ A. B.,

C. D. (Signature of Mortgagee or Assignee.)

R.S.O. 1897, c. 148, Sched. A.

No. 145.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Mortgages and Sales of
Personal Property.

First Reading	day of	1910.
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act respecting Liens of Mechanics, Wage-Earners and Others.

SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 APPLICATION OF ACT, s. 3.
 CONTRACTS WAIVING RIGHTS UNDER ACT VOID, s. 4.
 WHO ENTITLED TO LIEN, s. 5.
 HUSBAND TO BE DEEMED WIFE'S AGENT, s. 6.
 CONTRACTS NOT TO DEPRIVE A THIRD PARTY OF LIEN, s. 7.
 PROPERTY ON WHICH LIEN ATTACHES, s. 8.
 INSURANCE MONEY, s. 9.
 LIMIT OF OWNER'S LIABILITY, ss. 10, 11.
 PERCENTAGE TO BE RETAINED BY OWNER, s. 12.
 OWNER MAY PAY LIENHOLDERS, s. 13.
 OVER WHAT, LIENS SHALL HAVE PRIORITY, s. 14.
 LIEN FOR WAGES, s. 15.

MATERIALS NOT TO BE REMOVED TO PREJUDICE OF LIEN, s. 16.
 REGISTRATION OF CLAIM, ss. 17-22.
 WHEN LIEN SHALL CEASE, ss. 23-25.
 DEATH OF LIENHOLDER, s. 26.
 DISCHARGE OF LIEN, s. 27.
 TAKING SECURITY NOT TO PREJUDICE, ss. 28, 29.
 LIENHOLDERS ENTITLED TO INFORMATION FROM OWNERS, s. 30.
 ENFORCING LIENS BY ACTION, ss. 31-39.
 NEW TRIAL AND APPEALS, s. 40.
 COSTS, ss. 41-46.
 PAYMENT OUT, OF MONEYS IN COURT, s. 47.
 PERSONAL JUDGMENT, ss. 48, 49.
 PERSONS ENTITLED TO LIEN ON CHATTELS MAY SELL SAME, s. 50.
 REPEAL, s. 51.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Mechanics and Wage-Earners Lien Act.*" R.S.O. 1897, c. 153, s. 1.

2. In this Act,

Interpretation.

- (a) "Contractor" shall mean a person contracting with or employed directly by the owner or his agent for the doing of work or service or placing or furnishing materials for any of the purposes mentioned in this Act;
- (b) "Material" or "materials" shall include every kind of movable property;

"Owner."

(c) "Owner" shall extend to any person, body corporate or politic, including a municipal corporation and a railway company, having any estate or interest in the land upon or in respect of which the work or service is done, or materials are placed or furnished, at whose request and

(i) Upon whose credit or

(ii) On whose behalf or

(iii) With whose privity and consent or

(iv) For whose direct benefit

work or service is performed or materials are placed or furnished, and all persons claiming under him or them whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the materials furnished have been commenced to be furnished;

Registrar.

(d) "Registrar" shall include Master of Titles and Local Master of Titles.

"Registry office."

(e) "Registry Office" shall include Land Titles Office;

"Sub-contractor."

(f) "Sub-contractor" shall mean a person not contracting with or employed directly by the owner or his agent for the purposes aforesaid, but contracting with or employed by a contractor, or under him by another sub-contractor;

"Wages."

(g) "Wages" shall mean money earned by a mechanic or labourer for work done, whether by the day or other time or as piece work. R.S.O. 1897, c. 153, s. 2.

Act not to apply to streets or highways.

3. Nothing in this Act shall extend to any public street or highway, or to any work or improvement done or caused to be done by a municipal corporation thereon. R.S.O. 1897, c. 153, s. 7 (1); 1 Edw. VII. c. 12, s. 30.

Contracts waiving application of Act to be void.

4.—(1) Every agreement, verbal or written, express or implied, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act, that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person, shall be null and void.

(2) This section shall not apply to a manager, officer or foreman or to any other person whose wages are more than \$5 a day. R.S.O. 1897, c. 153, s. 3.

NATURE AND EXTENT OF LIEN.

5. Unless he signs an express agreement to the contrary, Nature of lien. and in that case subject to the provisions of section 4, any person who performs any work or service upon or in respect of, or places or furnishes any materials to be used in the making, constructing, erecting, fitting, altering, improving or repairing of any erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees, or the appurtenances to any of them, for any owner, contractor or sub-contractor, shall by virtue thereof have a lien for the price of such work, service or materials upon the erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit and ornamental trees, and appurtenances, and the land occupied thereby or enjoyed therewith, or upon or in respect of which such work or service is performed, or upon which such materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner. R.S.O. 1897, c. 153, s. 4.

6. Where work or service is done or materials are furnished upon or in respect of the land of a married woman with the privity and consent of her husband he shall be conclusively presumed to be acting as well for himself so as to bind his own interest, and also as her agent for the purposes of this Act, unless before doing such work or service or furnishing such materials the person doing or furnishing the same shall have had actual notice to the contrary. Work done or materials furnished on lands of married women. R.S.O. 1897, c. 153, s. 5.

7. No agreement shall deprive any person otherwise entitled to a lien under this Act, who is not a party to the agreement, of the benefit of the lien, but it shall attach, notwithstanding such agreement. Contracts not to deprive third party of lien. R.S.O. 1897, c. 153, s. 6.

8.—(1) The lien shall attach upon the estate or interest of the owner in the property mentioned in section 5. Property upon which lien shall attach.

(2) Where the estate or interest upon which the lien attaches is leasehold the fee simple may also, with the con-

Where estate charged is leasehold.

sent of the owner thereof, be subject to the lien, provided that such consent is testified by the signature of the owner upon the claim of lien at the time of the registering thereof, verified by affidavit.

Prior mortgage.

(3) Where the land upon or in respect of which any work or service is performed, or materials are placed or furnished to be used, is incumbered by a prior mortgage or other charge, and the selling value of the land is increased by the work or service, or by the furnishing or placing of the materials, the lien shall attach upon such increased value in priority to the mortgage or other charge. R.S.O. 1897, c. 153, s. 7 (2-3).

Application of insurance when lien attaches.

9. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed, and shall be subject to the claims of all persons for liens to the same extent as if such money was realized by a sale of such property in an action to enforce the lien. R.S.O. 1897, c. 153, s. 8.

Limit of amount of lien.

10. Save as herein otherwise provided the lien shall not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. R.S.O. 1897, c. 153, s. 9.

Limit of lien when claimed by some other than contractor.

11. Save as herein otherwise provided where the lien is claimed by any person other than the contractor, the amount which may be claimed in respect thereof shall be limited to the amount owing to the contractor or sub-contractor or other person for whom the work or service has been done or the materials placed or furnished. R.S.O. 1897, c. 153, s. 10.

Percentage to be deducted and retained by owner for thirty days.

12.—(1) In all cases the person primarily liable upon any contract under or by virtue of which a lien may arise shall, as the work is done or materials are furnished under the contract, deduct from any payments to be made by him in respect of the contract, and retain for a period of thirty days after the completion or abandonment of the contract twenty per cent. of the value of the work, service and materials actually done, placed or furnished as mentioned in section 5, and such value shall be calculated on the basis of the price to be paid for the whole contract.

Where contract price exceeds \$15,000.

(2) Where the contract price exceeds \$15,000 the amount to be retained shall be fifteen per cent. instead of twenty per cent.

(3) The lien shall be a charge upon the amount directed to be retained by this section in favour of sub-contractors whose liens are derived under persons to whom such moneys so required to be retained are respectively payable.

Lien to be charge on amounts retained.

(4) All payments up to eighty per cent., or eighty-five per cent. where the contract price exceeds \$15,000, of such value made in good faith by an owner to a contractor, or by a contractor to a sub-contractor, or by one sub-contractor to another sub-contractor before notice in writing of such lien given by the person claiming the lien to the owner, contractor or sub-contractor, as the case may be, shall operate as a discharge *pro tanto* of the lien.

Payments made in good faith without notice of lien.

(5) Payment of the percentage required to be retained under subsections 1 and 2 may be validly made so as to discharge all liens or charges in respect thereof after the expiration of the period of thirty days mentioned in subsection 1 unless in the meantime proceedings have been commenced to enforce any lien or charge against such percentage as provided by sections 23 and 24. R.S.O. 1897, c. 153, s. 11.

13. If an owner or contractor makes a payment to any person referred to in section 5 for or on account of any debt justly due to him for work or service done or for materials placed or furnished to be used as therein mentioned, and within three days afterwards gives, by letter or otherwise, written notice of such payment to the contractor or his agent, or to the sub-contractor or his agent, such payment, as between the owner and the contractor, or as between the contractor and the sub-contractor, shall be deemed to be a payment to the contractor or sub-contractor on his contract generally, but not so as to affect the percentage to be retained by the owner, as provided by section 12. R.S.O. 1897, c. 153, s. 12.

Payments made direct by owner to persons entitled to lien.

14.—(1) The lien shall have priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after such lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of such lien to the person making such payments or after registration of a claim for such lien as hereinafter provided.

Priority of lien.

(2) Where there is an agreement for the purchase of land, and the purchase money or part thereof is unpaid, and no conveyance has been made to the purchaser, he shall, for the purposes of this Act, be deemed a mortgagor and the seller a mortgagee.

Agreements for purchase where part of purchase money unpaid.

Priority
among lien
holders.

(3) Except where it is otherwise provided by this Act, no person entitled to a lien on any property, or to a charge on any money, shall be entitled to any priority or preference over another person of the same class entitled to a lien or charge on such property or money, and each class of lien holders shall rank *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights. R.S.O. 1897, c. 153, s. 13.

WAGES.

Priority of
lien for wages.

15.—(1) Every mechanic or labourer whose lien is for wages shall, to the extent of thirty days' wages, have priority over all other liens derived through the same contractor or sub-contractor to the extent of and on the twenty per cent. or fifteen per cent., as the case may be, of the contract price directed to be retained by section 12, to which the contractor or sub-contractor through whom such lien is derived is entitled, and all such mechanics and labourers shall rank thereon *pari passu*.

Enforcing
lien in such
cases.

(2) Every wage-earner shall be entitled to enforce a lien in respect of a contract not completely fulfilled.

Calculating
percentage
when contract
not fulfilled.

(3) If the contract has not been completed when the lien is claimed by a wage-earner, the percentage shall be calculated on the work done or materials furnished by the contractor or sub-contractor by whom such wage-earner is employed.

Percentage
not to be
otherwise
applied.

(4) Where the contractor or sub-contractor makes default in completing his contract the percentage shall not, as against a wage-earner claiming a lien, be applied by the owner or contractor to the completion of the contract or for any other purpose, nor to the payment of damages for the non-completion of the contract by the contractor or sub-contractor, nor in payment or satisfaction of any claim against the contractor or sub-contractor.

Devices to
defeat prior-
ity of wage
earners.

Payments
made for pur-
pose of de-
feating claim
for lien.

(5) Every device by an owner, contractor or sub-contractor to defeat the priority given to a wage-earner for his wages, and every payment made for the purpose of defeating or impairing a lien shall be null and void. R.S.O. 1897, c. 153, ss. 14 and 15.

MATERIAL.

Restraining
attempt to
remove mater-
ial affected
by lien.

16.—(1) During the continuance of a lien no part of the material affected thereby shall be removed to the prejudice of the lien. R.S.O. 1897, c. 153, s. 16.

(2) Material actually brought upon any land to be used in connection with such land for any of the purposes enumerated in section 5 shall be subject to a lien in favour of the person furnishing it until placed in the building, erection or work, and shall not be subject to execution or other process to enforce any debt other than for the purchase thereof, due by the person furnishing the same. *New.*

Material furnished for certain purposes not to be subject to execution.
61 V. c. 29, s. 13 (3) Man.

REGISTRATION OF LIEN.

17.—(1) A claim for a lien, Forms 1, 2 and 3, may be registered in the registry office of the registry division, or where the land is registered under *The Land Titles Act* in the Land Titles Office, of the locality in which the land is situate, and shall set out:—

Registration of claim for lien.
Rev. Stat. c. 138.

- (a) The name and residence of the person claiming the lien and of the owner, or of the person whom the person claiming the lien, or his agent, believes to be the owner of the land, and of the person for whom the work or service was or is to be done, or materials furnished or placed, and the time within which the same was or was to be done or furnished or placed;
 - (b) A short description of the work or service done or to be done, or materials furnished or placed or to be furnished or placed;
 - (c) The sum claimed as due or to become due;
 - (d) A description of the land sufficient for the purpose of registration and, where the land is registered under *The Land Titles Act*, also a reference to the number of the parcel of the land and to the register in which such land is registered in the Land Titles Office;
 - (e) The date of expiry of the period of credit when credit has been given.
- Contents of claim of lien.
Rev. Stat. c. 138.

(2) The claim shall be verified by the affidavit, Form 4, of the person claiming the lien or of his agent or assignee having a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge.

Form of claim.

(3) When it is desired to register a claim for lien against a railway, it shall be a sufficient description of the land of the railway company to describe it as the land of the railway

Description of lands where lien registered against railway.

company and every such claim shall be registered in the general registry in the registry office for the registry division within which such lien is claimed to have arisen. R.S.O. 1897, c. 153, s. 17.

What may be included in claim.

18. A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but where more than one lien is included in one claim each lien shall be verified by affidavit as provided in section 17. R.S.O. 1897, c. 153, s. 18.

Claims not to be invalidated for informality.

19.—(1) A substantial compliance with sections 17 and 18 shall be sufficient, and no lien shall be invalidated by reason of failure to comply with any of the requisites of those sections unless, in the opinion of the court, judge or officer who tries an action under this Act, the owner, contractor or sub-contractor, mortgagee or other person, is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

(2) Nothing in this section shall dispense with registration of the claim for lien. R.S.O. 1897, c. 153, s. 19.

Lien to be registered an incumbrance.

20.—(1) The Registrar, upon payment of the proper fee, shall register the claim, describing it as "Mechanics' Lien" against the land therein described in like manner as if it were a mortgage, but he shall not copy the claim or affidavit in any registry book.

Fee for registration.

(2) The fee for registration of a claim for lien shall be twenty-five cents, and if several persons join in one claim the registrar shall be entitled to a further fee of ten cents for each person after the first. R.S.O. 1897, c. 153, s. 20.

Lienholder to be deemed a purchaser. Rev. Stat. cc. 136, 138.

21. Where a claim is so registered, the person entitled to the lien shall be deemed a purchaser *pro tanto* and within the provisions of *The Registry Act* and *The Land Titles Act*, but except as herein otherwise provided those Acts shall not apply to any lien arising under this Act. R.S.O. 1897, c. 153, s. 21.

Claims for liens when to be registered.

22.—(1) A claim for lien by a contractor or sub-contractor, in cases not otherwise provided for, may be registered before or during the performance of the contract or within thirty days after the completion thereof.

(2) A claim for lien for materials may be registered before or during the furnishing or placing thereof or within thirty days after the furnishing or placing of the last material so furnished or placed.

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty days after the completion of the service.

(4) A claim for lien for wages may be registered at any time during the performance of the work for which such wages are claimed, or within thirty days after the last work is done for which the lien is claimed. R.S.O. 1897, c. 153, s. 22.

(5) In the case of a contract which is under the supervision of an architect, engineer or other person upon whose certificate payments are to be made, the claim for lien by a contractor may be registered within the time mentioned in subsection 1, or within seven days after the architect, engineer or other person has given, or has, upon application to him by the contractor, refused to give a final certificate. 2 Edw. VII., c. 21, s. 1.

Registration
of contrac-
tors' lien
after last
certificate.

EXPIRY AND DISCHARGE OF LIEN.

23. Every lien for which a claim is not registered shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime an action is commenced to realize the claim, or in which the claim may be realized under the provisions of this Act, and a certificate thereof is registered in the registry office in which the claim for lien might have been registered. R.S.O. 1897, c. 153, s. 23.

Liens to cease
if proceedings
not had with-
in time fixed
by Act.

24.—(1) Every lien for which a claim has been registered shall absolutely cease to exist on the expiration of ninety days after the work or service has been completed or materials have been furnished or placed, or after the expiry of the period of credit, where such period is mentioned in the claim for lien registered, unless in the meantime an action is commenced to realize the claim or in which the claim may be realized under the provisions of this Act, and a certificate is registered as provided by the next preceding section.

When lien to
cease if regis-
tered and not
proceeded
upon.

(2) A claim for lien shall cease to have any effect on the expiration of six months from the registration or any re-registration thereof, if the claim is not again registered within that period, unless in the meantime an action is commenced and a certificate thereof has been registered as provided by subsection 1. R.S.O. 1897, c. 153, s. 24.

Lien to expire
at end of six
months unless
renewed.

25. If there is no period of credit, or if the date of the expiry of the period of credit is not stated in the claim so registered, the lien shall cease to exist upon the expiration of

When lien to
cease if there
is no period
of credit.

ninety days after the work or service has been completed or materials furnished or placed, unless in the meantime an action is commenced and a certificate thereof registered as provided by section 23. R.S.O. 1897, c. 153, s. 25.

Death of lienholder.

26. The right of a lien holder may be assigned by an instrument in writing and, if not assigned, upon his death shall pass to his personal representative. R.S.O. 1897, c. 153, s. 26.

Discharge of lien.

27.—(1) A lien may be discharged by a receipt signed by the claimant, or his agent duly authorized in writing, acknowledging payment, and verified by affidavit and registered.

(2) The receipt shall be numbered and entered like other instruments, but shall not be copied in any registry book, and there shall be entered against the entry of the lien to which the discharge relates the word "discharged" and the registration number of such discharge.

(3) The fee shall be the same as for registering a claim. R.S.O. 1897, c. 153, s. 27 (1).

Security or payment into court and vacating lien thereon.

(4) Upon application the court, judge or officer having jurisdiction to try an action to realize a lien, may allow security for or payment into court of the amount of the claim, and may thereupon order that the registration of the lien be vacated or may vacate the registration upon any other proper ground and a certificate of the order may be registered. R.S.O. 1897, c. 153, s. 27 (2) (3); 62 V. (1), c. 2, s. 1.

When notice of application to vacate not requisite.

(5) Where the certificate required by sections 23 or 24 has not been registered within the prescribed time, and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate required by sections 23, 24 or 25, the order vacating the lien may be made *ex parte* upon production of the certificate of the proper Registrar certifying the facts entitling the applicant to such order. R.S.O. 1897, c. 153, s. 27 (4).

EFFECT OF TAKING SECURITY OR EXTENDING TIME.

Certain acts not to prejudice right to enforce lien.

28.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery or the recovery of a personal judgment for the claim, shall not merge, waive, pay, satisfy, prejudice or destroy the lien unless the claimant agrees in writing that it shall have that effect. R.S.O. 1897, c. 153, s. 28 (1).

(2) Where any such promissory note or bill of exchange has been negotiated the lien holder shall not thereby lose his lien if, at the time of bringing his action to enforce it, or, where an action is brought by another lien holder he is, at the time of proving his claim in such action, the holder of such promissory note or bill of exchange. *New.*

(3) Nothing in subsection 2 shall extend the time limited by this Act for bringing the action to enforce the lien. *New.*

(4) A person who has extended the time for payment of a claim for which he has a lien to obtain the benefit of this section shall commence an action to enforce such lien within the time prescribed by this Act, and shall register a certificate as required by sections 23, 24 or 25, but no further proceedings shall be taken in the action until the expiration of such extension of time. R.S.O. 1897, c. 153, s. 28 (1-2).

29. Where the period of credit in respect of a claim has not expired, or where there has been an extension of time for payment of the claim, the lien holder may nevertheless, if an action is commenced by any other person to enforce a lien against the same property, prove and obtain payment of his claim in such action as if the period of credit or the extended time had expired. R.S.O. 1897, c. 153, s. 28 (3). Where period of credit not expired.

INFORMATION TO BE GIVEN LIEN HOLDER.

30.—(1) Any lien holder may at any time demand of the owner or his agent the terms of the contract or agreement with the contractor for and in respect of which the work, service or material is or is to be performed or furnished or placed, and if such owner or his agent does not, at the time of such demand, or within a reasonable time thereafter, inform the person making such demand of the terms of such contract or agreement, and the amount due and unpaid upon such contract or agreement, or if he knowingly falsely states the terms of the contract or agreement, or the amount due or unpaid thereon, and if the person claiming the lien sustains loss by reason of such refusal or neglect or false statement, the owner shall be liable to him in an action therefor for the amount of such loss. R.S.O. 1897, c. 153, s. 29. Lien holders to be entitled to information from owner as to terms of contract.

(2) The court, judge, or officer having jurisdiction to try an action to realize a lien may, on a summary application at any time before or after an action is commenced for the enforcement of such lien, make an order requiring the owner or his agent to produce and allow any lien holder to inspect any Order for inspection of contract by lien holders.

such contract or agreement upon such terms as to costs as he may deem just. R.S.O. 1897, c. 153, s. 30.

ACTION TO REALIZE CLAIM.

Mode of realizing lien.

31.—(1) A lien may be realized by action in the High Court, according to the ordinary procedure of that court, excepting where the same is varied by this Act.

(2) Without issuing a writ of summons, an action shall be commenced by filing in the proper office a statement of claim, verified by affidavit, Form 5.

(3) The statement of claim shall be served within one month after it is filed, but a judge or officer having jurisdiction to try the action may extend the time for service thereof, and the time for delivering the statement of defence shall be the same as for entering an appearance in an action in the High Court.

(4) It shall not be necessary to make any lien holders parties defendant to the action, but all lien holders served with the notice of trial shall for all purposes be deemed parties to the action. R.S.O. 1897, c. 153, s. 31.

Lien holders joining in action.

32. Any number of lien holders, claiming liens on the same land, may join in an action, and an action brought by a lien holder shall be taken to be brought on behalf of the other lien holders. R.S.O. 1897, c. 153, s. 32.

Who may try action to enforce lien.

33. The action may be tried before the Master in Ordinary, a local master of the High Court, an official referee, or a judge of the County or District Court, in any county or district in which the land is situate, or before a judge of the High Court. R.S.O. 1897, c. 153, s. 33.

Powers of certain officers.

34. The Master in Ordinary, the Local Masters, Official Referees, and the Judges of the County and District Courts, in addition to their ordinary powers, shall have all the jurisdiction, powers and authority of the High Court to try and completely dispose of the action and all questions arising therein. R.S.O. 1897, c. 153, s. 34.

Consolidation of actions.

35. Where more actions than one are brought to realize liens in respect of the same land, a judge or officer having jurisdiction to try such actions may, on the application of any party to any one of them, or on the application of any other person interested, consolidate all such actions into one action, and may give the conduct of the consolidated action to any plaintiff as he may see fit. R.S.O. 1897, c. 153, s. 37.

36. Any lien holder entitled to the benefit of an action may apply for the carriage of the proceedings, and the judge or officer may make an order giving such lien holder the carriage of the proceedings. Transferring carriage of proceedings. R.S.O. 1897, c. 153, s. 38.

37.—(1) After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases, where it is desired to try the action otherwise than before a judge of the High Court, either party may apply to a judge or officer who has jurisdiction to try the action, to fix a day for the trial thereof, and the judge or officer shall appoint the day and place of trial. Appointing day for trial.

(2) The party obtaining an appointment for the trial shall, at least eight clear days before the day appointed, serve notice of trial, Form 6, upon the solicitors for the defendants who appear by solicitors, and upon defendants who appear in person and on all lien holders who have registered their claims as required by this Act, or who are known to him, and on all other persons having any charge, incumbrance or claim on the land subsequent in priority to the lien, who are not parties, and such service shall be personal, unless otherwise directed by the judge or officer, who may direct in what manner the notice of trial may be served. Notice of trial and service of. R.S.O. 1897, c. 153, s. 36.

(3) The judge or officer shall try the action and all questions which arise therein or which are necessary to be tried in order to completely dispose of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom the notice of trial has been served, and shall take all accounts, make all enquiries, give all directions, and do all other things necessary to finally dispose of the action and of all matters, questions, and accounts arising therein or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action and all persons who have been served with the notice of trial, and shall embody the results in a judgment, Form 7. Trial.

(4) The judge or officer may order that the estate or interest on which the lien attaches be sold, and where, by the judgment, a sale is directed he may direct the sale to take place at any time after the judgment, allowing a reasonable time for advertising such sale. Estate may be sold.

(5) The judge or officer may also direct the sale of any materials and authorize the removal thereof. Sale of materials.

(6) A lien holder who has not proved his claim at the trial, on application to the judge or officer before whom the Letting in lien-holders who have not

proved their
claims at
trial.

action was tried, may be let in to prove his claim on such terms as to costs and otherwise as may be deemed just at any time before the amount realized in the action for the satisfaction of liens has been distributed, and where such a claim is allowed the judgment shall be amended so as to include such claim.

Right of lien-
holders to
attend at
trial.

(7) Every lien holder for an amount not exceeding \$100 may be represented by a solicitor or by an agent who is not a solicitor.

Report where
sale is had.

38. Where a sale is had, the judge or officer with whose approbation the sale takes place shall make a report thereon and therein direct to whom the money realized shall be paid, and may add to the claim of the person conducting the sale his actual disbursements in connection therewith, and where enough to satisfy the judgment and costs is not realized he shall certify the amount of the deficiency and the names of the persons, with their amounts, who are entitled to recover the same, and the persons by the judgment adjudged to pay the same, and the persons entitled may enforce payment by execution or otherwise as on a judgment. R.S.O. 1897, c. 153, s. 35.

Lien-holders
whose claims
are not pay-
able to share
in proceeds.
Kelly &
Tourist.
14 O.W.R.

39. Where property subject to a lien is sold in an action to enforce a lien, every lien holder shall be entitled to share in the proceeds of the sale in respect of the amount then owing to him, although the same or part thereof was not payable at the time of the commencement of the action or is not then presently payable. *New.*

NEW TRIAL AND APPEAL.

Where judg-
ment of court
of first in-
stance to be
final.

40.—(1) Where the aggregate amount of the claims of the plaintiff and all other persons claiming liens is not more than \$100, the judgment shall be final and without appeal, but the judge or officer who tried the action may, upon application within fourteen days after judgment is pronounced, grant a new trial.

Where appeal
to Divisional
Court final.

(2) Where the aggregate amount of the claims of the plaintiff and all other persons claiming liens is more than \$100 and not more than \$500, any person affected by the judgment may appeal therefrom to a Divisional Court of the High Court, whose judgment shall be final and without appeal.

Appeal in
other cases.

(3) In all other cases an appeal shall lie and may be had in like manner and to the same extent as from the decision of

a judge trying an action in the High Court without a jury.
R.S.O. 1897, c. 153, s. 39.

FEES AND COSTS.

41.—(1) No fees in stamps or money shall be payable to any officer, nor on any filing, order, record, judgment, or other proceeding, excepting that every person other than a wage-earner shall, on filing his statement of claim where he is a plaintiff, or on filing his claim where he is not a plaintiff, pay in stamps one dollar on every one hundred dollars or fraction of one hundred dollars of the amount of his claim up to one thousand dollars. R.S.O. 1897, c. 153, s. 40.

Limit of fees
in money or
stamps.

(2) When the proceedings are taken before a local master who is paid by fees, such amount shall be payable to him in cash instead of in stamps. 1 Edw. VII., c. 12, s. 13.

42. The costs of the action, exclusive of actual disbursements, awarded to the plaintiffs and successful lien holders, shall not exceed in the aggregate twenty-five per cent. of the total amount awarded to them by the judgment, and shall be apportioned and borne in such proportion as the judge or officer who tries the action may direct. R.S.O. 1897, c. 153, s. 41.

Limit of costs
to plaintiff.

43. Where costs are awarded against the plaintiff or other persons claiming liens, they shall not exceed twenty-five per cent. of the claim of the plaintiff and the other claimants, besides actual disbursements, and shall be apportioned and borne as the judge or officer may direct. R.S.O. 1897, c. 153, s. 42.

Limit of costs
to be awarded
against
plaintiffs.

44. Where the least expensive course is not taken by a plaintiff the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken. R.S.O. 1897, c. 153, s. 43.

Costs where
least expen-
sive course
not taken.

45. Where a lien is discharged or vacated under section 27 or where judgment is given in favour of or against a claim for a lien, in addition to the costs of the action, the judge or officer may allow a reasonable amount for the costs of drawing and registering the claim for lien or of vacating the registration thereof. R.S.O. 1897, c. 153, s. 44.

Costs of draw-
ing and regis-
tering and
vacating
registration of
lien.

46. The costs of and incidental to all applications and orders not otherwise provided for shall be in the discretion of the judge or officer. R.S.O. 1897, c. 153, s. 45.

Costs not
otherwise
provided for.

PAYMENT OUT OF COURT.

Payments out
of court.

47.—(1) Except in actions tried by a judge of the High Court, the judge or officer who tries the action, where money has been paid into court and the time for payment out has arrived, shall forward a requisition for cheques with a certified copy of his judgment and of the report on sale, if any, to the Accountant of the Supreme Court, who shall, upon receiving the same, make out and return to the judge or officer cheques for the amounts payable to the persons mentioned in the requisition, and the judge or officer, on receipt of cheques, shall distribute them to the persons entitled.

Fees not to
be payable on
payments out
of court.

(2) No fees or stamps shall be payable on any cheques or on proceedings to pay money into court or to obtain money out of court, in respect of a claim for lien, but sufficient postage stamps to prepay a return registered letter shall be enclosed with every requisition for cheques. R.S.O. 1897, c. 153, s. 46.

JUDGMENTS IN ACTIONS.

Form of
judgment in
favour of
lien holders.

48. All judgments in favour of lien holders shall adjudge that the party personally liable for the amount of the judgment shall pay so much of any deficiency which may remain after sale of the property directed to be sold, as might have been recovered in an ordinary action against him, and where on the sale enough to satisfy the judgment and costs is not realized, such part of the deficiency may be recovered by execution against the property of such party. R.S.O. 1897, c. 153, s. 47.

Personal judgment when
claim for lien
fails.

49. Where a claimant fails to establish a valid lien he may nevertheless recover a personal judgment against any party to the action for such sum as may appear to be due to him and which he might recover in an action against such party. R.S.O. 1897, c. 153, s. 48.

LIENS ON CHATTELS.

Mechanics
entitled to
lien on a
chattel may
sell the chattel if (after
three months)
payment is
not made.

50.—(1) Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement of its properties or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists, but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid,

have the right, in addition to any other remedy to which he may be entitled, to sell by auction the chattel or thing, on giving one week's notice by advertisement in a newspaper published in the municipality in which the work was done, or in case there is no newspaper published in such municipality, then in a newspaper published nearest thereto, setting forth the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence, if any, of the owner, if he is a resident of such municipality.

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale, and shall, upon application, pay over any surplus to the person entitled thereto. R.S.O. 1897, c. 153, s. 51. Application of
proceeds of
sale.

51. Chapter 153 of the Revised Statutes, 1897, and all amendments thereto are repealed. Repeal.

FORM 1.

Claim for Lien.

A. B. (name of claimant) of (here state residence of claimant). (if claimant is a personal representative or assignee set out the facts) under *The Mechanics and Wage-Earners Lien Act* claims a lien upon the estate of (here state the name and residence of owner of the land upon which the lien is claimed). in the undermentioned land in respect of the following work [or service or materials] that is to say (here give a short description of the nature of the work done or to be done, or materials furnished or to be furnished, and for which the lien is claimed.) which work [or service] was [or is to be] done [or materials were or are to be furnished] for (here state the name and residence of the person upon whose request the work is done or to be done, or the materials furnished or to be furnished) on or before the day of 19

The amount claimed as due [or to become due] is \$

The following is the description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

Where credit has been given, insert: The work was done [or materials were furnished] on credit, and the period of credit agreed to expired [or will expire] on the day of 19 .

Dated at this day of 19 .
(Signature of claimant.)

FORM 2.

Claim for Lien for Wages.

A. B. (name of claimant) of (here state residence of claimant). (if claimant is a personal representative or assignee set out the facts) under *The Mechanics and Wage-Earners Lien Act* claims a lien upon the estate of (here state the name and residence of owner

of the land upon which the lien is claimed), in the undermentioned land in respect of work performed (or to be performed) thereon while in the employment of (here state the name and residence of the person upon whose request the work was or is to be performed) on or before the day of 19 .

The amount claimed as due [or to become due] is \$

The following is the description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

Dated at this day of 19 .
(Signature of claimant.)

FORM 3.

Claim for Lien for Wages by Several Claimants.

The following persons claim a lien under *The Mechanics and Wage-Earners Lien Act* upon the estate of (here state the name and residence of the owner of land upon which the lien is claimed) in the undermentioned land in respect of wages for labour performed (or to be performed) thereon while in the employment of (here state name and residence or names and residences of employers of the several persons claiming the lien).

A.B. of (residence) \$ for wages.
C.D. " \$ "
E.F. " \$ "

The following is the description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

Dated at this day of 19 .
(Signatures of the several claimants.)

FORM 4.

Affidavit Verifying Claim.

I, A.B., named in the above (or annexed) claim, make oath that the said claim is true.

Or, We A.B., and C.D., named in the above (or annexed) claim, make oath, and each for himself makes oath that the said claim, so far as relates to him, is true.

[Where affidavit is made by agent or assignee a clause must be added to the following effect:—I have full knowledge of the facts set forth in the above (or annexed) claim.]

Sworn before me at , in the }
county of , this }
day of 19 . }

Or, The said A.B. and C.D. were severally }
sworn before me at , in the county }
of , this day of , }
19 . }

Or, The said A.B. was sworn before me }
at , in the county of }
this day of 19 . }

FORM 5.

*Affidavit Verifying Claim on commencing an Action.**(Style of Court and Cause.)*

I, _____, make oath and say, that I have read (or heard read), the foregoing statement of claim, and that the facts therein set forth are, to the best of my knowledge and belief, true, and the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all the sums of money or goods or merchandise to which (*naming the debtor*) is entitled to credit as against me.

Sworn before me, etc.

FORM 6.

*Notice of Trial.**(Style of Court and Cause.)*

Take notice that this action will be tried at the _____, in the _____ of _____, in the County (or District) of _____, on the _____ day of _____ by _____ and at such time and place the _____ will proceed to try the action and all questions which arise in or which are necessary to be tried completely to dispose of the action and to adjust the rights and liability of the persons appearing before him, or upon whom this notice of trial has been served, and at such trial he will take all accounts, make all enquiries and give all directions and do all things necessary to try and otherwise finally dispose of this action, and of all matters, questions, and accounts arising therein and will give necessary relief to all parties.

And further take notice that if you do not appear at the trial and prove your claim, if any, (or your defence, if any) to the action the proceedings will be taken in your absence and you may be deprived of all benefit of the proceedings and your rights disposed of in your absence.

This is a Mechanics Lien action brought by the above named plaintiff against the above named defendants to enforce a Mechanics Lien against the following lands:—(*set out description of lands*).

This notice is served by, etc.

Dated _____ 19 .

To _____ .

FORM 7.

Judgment.

In the High Court of Justice.

Monday, the

day of 19 .

Name of Judge or officer:

William Spencer, Plaintiff,

and

Thomas Burns, Defendant.

This action coming on for trial before _____ at _____ upon opening of the matter and it appearing that the following persons have been duly served with notice of trial herein, (*set out names of all persons served with notice of trial*) and all such per-

sons (*or as the case may be*) appearing at the trial [*or and the following persons not having appeared set out names of non-appearing persons*] and upon hearing the evidence adduced and what was alleged by counsel for the plaintiff and for C.D. and E.F. and the defendant [*or and by A.B. appearing in person.*]

1. This Court doth declare that the plaintiff and the several persons mentioned in the first schedule hereto are respectively entitled to a lien under *The Mechanics and Wage Earners Lien Act*, upon the land described in the second schedule hereto, for the amounts set opposite their respective names in the 2nd, 3rd and 4th columns of the said 1st schedule, and the persons primarily liable for the said claims respectively are set forth in the 5th column of the said schedule.

2. [And this Court doth further declare that the several persons mentioned in schedule 3 hereto are also entitled to some lien, charge or incumbrance upon the said land for the amounts set opposite their respective names in the 4th column of the said schedule 3, *according to the fact.*]

3. And this Court doth further order and adjudge that upon the defendant (A.B. the owner) paying into court to the credit of this action the sum of (gross amount of liens in schedules 1 and 3 for which owner is liable) on or before the day of next, that the said liens in the said 1st schedule mentioned be and the same are hereby discharged, [and the several persons in the said 3rd schedule are to release and discharge their said claims and assign and convey the said premises to the defendant (owner) and deliver up all documents on oath to the said defendant (owner) or to whom he may appoint] and the said money so paid into court is to be paid out in payment of the claims of the said lien holders (*or and incumbrancers*).

4. In case the said defendant (owner) shall make default in payment of the said money into court, this Court doth order and adjudge that the said land be sold with the approbation of the Master of this Court at and that the purchase money be paid into court to the credit of this action and that all proper parties do join in the conveyances as the said Master shall direct.

5. And this Court doth order and adjudge that the said purchase money be applied in or towards payment of the several claims in the said 1st [and 3rd] schedule[s] mentioned as the said Master shall direct, with subsequent interest and subsequent costs to be computed and taxed by the said Master.

6. And this Court doth further order and adjudge that in case the said purchase money shall be insufficient to pay in full the claims of the several persons mentioned in the said 1st schedule, the persons primarily liable for such claims as shewn in the said 1st schedule do pay to the persons to whom they are respectively primarily liable the amount remaining due to such persons forthwith after the same shall have been ascertained by the said Master.

7. [And this Court doth declare that have not proved any lien under *The Mechanics and Wage Earners Lien Act*, and that they are not entitled to any such lien, and this Court doth order and adjudge that the claims of liens registered by them against the land mentioned in the said 2nd schedule be and the same are hereby discharged, *according to the fact.*]

SCHEDULE 1.

Names of lien holders entitled to mechanics' liens.	Amount of debt and interest (if any).	Costs.	Total.	Names of primary debtors.

(Signature of officer.)

SCHEDULE 2.

The lands in question in this matter are

(Set out by a description sufficient for registration purposes.)

(Signature of officer.)

SCHEDULE 3.

Names of persons entitled to incumbrances other than mechanics' liens.	Amount of debt and interest (if any).	Costs.	Total.

(Signature of officer.)

No. 146.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Lions of Mechanics,
Wage Earners and Others.

First Reading	day of	1910.
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Mr. FOY.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting Contracts in relation to Goods in the Possession of Agents and others.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

DISPOSITIONS BY MERCANTILE AGENTS.

Powers of mercantile agents as to disposition of goods, s. 3.

Effect of pledge of documents of title, s. 4.

Pledge for antecedent debt, s. 5.

Rights acquired by exchange of goods or documents, s. 6.

Agreements through clerks, s. 7.

Provisions as to consignors and consignees, s. 8.

DISPOSITION BY SELLERS AND BUYERS OF GOODS.

Disposition by seller remaining in possession, s. 9.

Disposition by buyer retaining possession, s. 10.

Effect of sale or pledge by buyer, s. 11.

SUPPLEMENTAL.

Mode of transferring documents, s. 12.

Saving for rights of true owner, s. 13.

Saving for common law powers of agents, s. 14.

REPEAL, s. 15.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Factors Act.*"

2.—(1) In this Act,—

(a) "Document of title" shall include any bill of lading and warehouse receipt, as defined by *The Mercantile Law Amendment Act*, any warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or delivery, the possessor of the document to transfer or receive goods thereby represented;

(b) "Goods" shall include wares and merchandise: Goods.

(c) "Mercantile agent" shall mean a mercantile agent having in the customary course of his business

Short title.
Imp. Act, 52
and 53 V. c.
45, s. 17.

Interpretation.
Idem,
s. 1.

Document
of title.

Mercantile
agent.

as such agent authority either to sell goods, or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods;

Pledge.

(d) "Pledge" shall include any contract pledging or giving a lien or security on goods, whether in consideration of an original advance or of any further or continuing advance or of any pecuniary liability.

Possession.

(2) A person shall be deemed to be in possession of goods or of the documents of title to goods where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or on his behalf.

DISPOSITIONS BY MERCANTILE AGENTS.

Powers of mercantile agent as to disposition of goods.
Idem, s. 2.

3.—(1) Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods, any sale, pledge or other disposition of the goods, made by him when acting in the ordinary course of business of a mercantile agent, shall, subject to the provisions of this Act, be as valid as if he were expressly authorized by the owner of the goods to make the same; provided that the person taking under the disposition acts in good faith, and has not at the time thereof notice that the person making the disposition has not authority to make the same.

Revocation of consent.

(2) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of documents of title to goods, any sale, pledge or other disposition which would have been valid if the consent had continued, shall be valid notwithstanding the determination of the consent; provided that the person taking under the disposition acts in good faith and has not at the time thereof notice that the consent has been determined.

Derivative documents.

(3) Where a mercantile agent has obtained possession of any documents of title to goods by reason of his being or having been, with the consent of the owner, in possession of the goods represented thereby, or of any other documents of title to the goods, his possession of the first mentioned documents shall, for the purposes of this Act, be deemed to be with the consent of the owner.

Presumption.

(4) For the purposes of this Act the consent of the owner shall be presumed in the absence of evidence to the contrary.

Effect of pledge of documents of title.
Idem, s. 3.

4. A pledge by a mercantile agent of the documents of title to goods shall be deemed to be a pledge of the goods.

5. Where a mercantile agent pledges goods as security for a debt due from or liability incurred by the pledgor to the pledgee before the time of the pledge, the pledgee shall acquire no further right to the goods than could have been enforced by the pledgor at the time of the pledge.

Pledge for antecedent debt.
Idem, s. 4.

6. The consideration necessary for the validity of a sale, pledge or other disposition of goods by a mercantile agent, in pursuance of this Act, may be either a payment in cash, or the delivery or transfer of other goods, or of a document of title to goods, or of a negotiable security or any other valuable consideration; but where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods, or of a document of title to goods, or of a negotiable security or of other valuable consideration, the pledgee shall acquire no right or interest in the goods so pledged in excess of the value of the goods, document, security or other valuable consideration when so delivered or transferred in exchange.

Rights acquired by exchange of goods or documents.
Idem, s. 5.

7. For the purposes of this Act an agreement made with a mercantile agent through a clerk or other person authorized in the ordinary course of business to make contracts of sale or pledge on his behalf shall be deemed to be an agreement with the agent.

Agreements through clerks, etc.
Idem, s. 6.

8.—(1) Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale, or has shipped the goods in the name of another person, and the consignee of the goods has not had notice that such person is not the owner of the goods, the consignee shall, in respect of advances made in good faith to or for the use of such person, have the same lien on the goods as if such person were the owner of the goods, and may transfer any such lien to another person.

Provisions as to consignors and consignees.
Idem, s. 7.

(2) Nothing in this section shall limit or affect the validity of any sale, pledge or disposition by a mercantile agent.

DISPOSITION BY SELLERS AND BUYERS OF GOODS.

9. Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof, or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale, shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same.

Disposition by seller remaining in possession.
Idem, s. 8.

Disposition
by buyer
retaining
possession.
Idem, s. 9.

10.—(1) Where a person, having bought or agreed to buy goods, obtains with the consent of the seller possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title, under any sale, pledge or other disposition thereof, or under any agreement for sale, pledge or other disposition thereof, to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods, shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

Exception as
to contracts
under The
Conditional
Sales Act.

(2) This section shall not apply to goods the possession of which are obtained under a contract coming within the meaning of *The Conditional Sales Act* where the seller has complied with the provisions of that Act.

Effect of sub-
sale or pledge
by buyer.
Imp. Act, 56
and 57 V. c.
71, s. 47.

11. Subject to the provisions of this Act the unpaid seller's right of lien or retention or stoppage in transitu shall not be affected by any sale or other disposition of the goods which the buyer may have made unless the seller has assented thereto; Provided that where a document of title to goods has been lawfully transferred to any person as buyer or owner of the goods and that person transfers the document to a person who takes the same in good faith and for valuable consideration, then if such last mentioned transfer was by way of sale the unpaid seller's right of lien or retention or stoppage in transitu shall be defeated; and if such last mentioned transfer was by way of pledge or other disposition for value the unpaid seller's right of lien or retention or stoppage in transitu can only be exercised subject to the rights of the transferee.

SUPPLEMENTAL.

Mode of
transferring
documents.
Imp. Act, 52
and 53 V. c.
45, s. 11.

12. For the purposes of this Act the transfer of a document of title may be by endorsement, or where the document is by custom or by its express terms, transferable by delivery, or makes the goods deliverable to the bearer, then by delivery.

Saving for
rights of
true owner.
Idem, s. 12.

13.—(1) Nothing in this Act shall authorize an agent to exceed or depart from his authority as between himself and his principal, or exempt him from any liability for so doing.

(2) Nothing in this Act shall prevent the owner of goods from recovering them from his agent at any time before the sale or pledge thereof, or shall prevent the owner of goods pledged by an agent from having the right to redeem the

goods at any time before the sale thereof, on satisfying the claim for which the goods were pledged, and paying to the agent, if by him required, any money in respect of which the agent would by law be entitled to retain the goods or the documents of title thereto, or any of them, by way of lien as against the owner, or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien.

(3) Nothing in this Act shall prevent the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for the same, or any part of that price, subject to any right of set off on the part of the buyer against the agent.

14. The provisions of this Act shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Act.

Saving for
common law
powers of
agents.
Idem, s. 13.

15. Chapter 150 of the Revised Statutes, 1897, and all amendments thereto are repealed.

Repeal.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting Contracts in relation to
Goods in the Possession of
Agents and others.

First Reading	day of	1910.
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Mr. Foy.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting Commissioners of Police appointed by the Government of Canada.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Dominion Commissioners of Police Act.*" Short title.

2. Every Commissioner of Police appointed under *The Dominion Police Act*, to be and act as such within Ontario, and authorized in that behalf by the Lieutenant-Governor shall have and may exercise within the territory named in his commission all the powers, authority, rights and privileges appertaining to a Police Magistrate and to Justices of the Peace generally; and in all respects, except as otherwise provided by this Act, shall be subject to the law respecting Police Magistrates and the office of Justice of the Peace. Powers of Dominion Commissioners of Police. R.S.O. c. 92.
R.S.O. 1897, c. 98, s. 1, *part.*

3. It shall not be necessary for a Commissioner of Police to possess any property qualification or to be actually resident within the territorial division for which he is appointed, or to take or subscribe any oath of allegiance or of office. Qualification of Commissioners.
R.S.O. 1897, c. 98, s. 1, *part.*

4. Every police constable appointed by a Commissioner of Police shall have all the powers, authority, rights and privileges and shall be charged with the duties and responsibilities appertaining to a constable appointed in this Province, and shall be subject to the Commissioner of Police, and liable to all the responsibilities, forfeitures and penalties provided by *The Dominion Police Act*. Police constables.
R.S.O. 1897, c. 98, s. 2. R.S.O. c. 92.

Commis-
sioners and
constables to
have no
authority in
municipal
matters.

5. No Commissioner of Police, and no such police constable shall, as such, have power or authority in respect of any purely municipal matter or offences against municipal by-laws. R.S.O. 1897, c. 98, s. 3.

Revocation
of commis-
sions by
Lieutenant-
Governor.

6. Where the Lieutenant-Governor revokes a commission issued by him under this Act, the authority of the commissioner, and of any constable appointed by him, as far as the same are given by this Act, shall forthwith cease. R.S.O. 1897, c. 98, s. 4.

Repeal.

7. Chapter 98 of the Revised Statutes, 1897, is repealed.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Commissioners of Police
appointed by the Government of Canada.

First Reading	day of	1910.
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Mr. Foy.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act to establish a Provincial Park at Rondeau.

SHORT TITLE, s. 1.	INTOXICATING LIQUORS PROHIBITED, s. 8.
INTERPRETATION, s. 2.	HUNTING AND SHOOTING, s. 9.
LIMIT AND PURPOSES OF PARK, s. 3.	GENERAL PENALTIES AND RECOVERY OF, ss. 10, 11.
SETTLEMENT IN, PROHIBITED, s. 4.	APPLICATION OF FINES, s. 12.
MANAGEMENT OF, s. 5.	PROCEDURE, s. 13.
PUBLICATION OF REGULATIONS, s. 6.	REPEAL, s. 14.
TIMBER NOT TO BE CUT IN, s. 7.	

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Rondeau Provincial Park Act.*" R.S.O. 1897, c. 47, s. 1. Short title.

2. In this Act "Minister" shall mean the Minister of Lands, Forests and Mines. Interpretation.
"Minister."

3. The tract of land, marsh and land covered with water hereinafter mentioned, that is to say, so much of the Rondeau Peninsula otherwise known as Pointe aux Pins, in the County of Kent, as is the property of the Province and which may be known and described as follows, namely, all that parcel of land, marsh and land covered with water, bounded on the north by the north limit of lot number 1 or said Pointe aux Pins and said limit produced easterly to the water's edge of Lake Erie, as shown on plan of survey by Provincial Land Surveyor Henry Lawe, dated September 8th, 1864, of record in the Department of Lands, Forests and Mines; on the east and south by the waters of said Lake Erie and on the west by the waters of the Harbour of Rondeau and the easterly breakwater pier at the entrance to said Harbour; excepting thereout nevertheless said lot number 1, on Pointe aux Pins containing 58½ acres, Description of
lands included
in park.

as granted by Letters Patent to Isaac Swartout in 1872 and also that part of the Sand Beach, containing 15½ acres, dividing the Harbour of Rondeau from Lake Erie as vested in the Government of Canada for lighthouse purposes on June 21st, 1892, containing by admeasurement an area of land, marsh and land covered with water of 4,946 acres, more or less, is hereby reserved and set apart as a Public Park Forest Reservation and Health Resort for the benefit, advantage and enjoyment of the people of Ontario, subject to the provisions of this Act and of the regulations hereinafter mentioned and shall be known as "The Rondeau Provincial Park." R.S.O. 1897, c. 47, ss. 2 and 3.

Dedication of land for park purposes. 4. Except as hereinafter provided, no person shall locate, settle upon, use or occupy any portion of the Park. R.S.O. 1897, c. 47, s. 4.

Control of; park regulations. 5. The Park shall be under the control and management of the Department of Lands, Forests and Mines, and the Lieutenant-Governor in Council may make regulations for the following purposes:—

Care and management. (a) The care, preservation, management and improvement of the Park, and of the watercourses, lakes, trees, shrubbery, and other matters therein;

Leasing lots. (b) The lease for any term of years of such parcels of land in the Park as he deems advisable, for the construction of buildings for habitation during the summer, and such other buildings as may be necessary for the accommodation of visitors or persons resorting to the Park as a sanitarium or health or summer resort;

Fires. (c) The prevention and extinguishment of fires;

Licensing shops, etc. (d) The issuing of licenses for shops, and for houses for the accommodation of visitors, and places for the accommodation of persons resorting to the Park;

Preservation of game and fish. (e) The preservation and protection of game and fish, of wild birds generally, and of any or all animals in the Park, and for the destruction of wolves, bears and other noxious or injurious or destructive animals;

(f) The removal and exclusion of pedlars, travelling salesmen, and other trespassers, and the confiscation or destruction of guns or other firearms or explosives, traps, nets, spears or other weapons or implements for hunting or fishing found within the limits of the Park without proper authority; Trespassers.

(g) The appointment of a Park Ranger to see to the carrying out of the provisions of this Act and the regulations made thereunder; and defining his powers and duties, and providing for his salary or other remuneration, out of any money which may be appropriated by the Legislature for that purpose; Park ranger.

(h) The imposition of penalties for any violation of the provisions of this Act or of the regulations made thereunder, not exceeding in any case the sum of \$50 and costs, and in default of payment, imprisonment for not more than three months; and, Penalties.

(i) Generally, for all purposes which he may deem necessary to carry this Act into effect. General purposes. R.S.O. 1897, c. 47, s. 5; 5 Edw. VII. c. 5, s. 2.

6. Every such regulation, after publication for four consecutive weeks in the *Ontario Gazette*, and in any other manner that may be prescribed by the Lieutenant-Governor in Council shall have the like force and effect as if herein enacted, and shall be laid before the Assembly within fifteen days after its first meeting subsequent to the making thereof. Publication of regulations. R.S.O. 1897, c. 47, s. 6.

7. No timber or wood shall be cut within the limits of the Park, except dead or fallen wood, or in clearing for roads or other Park purposes, or underbrushing in clearing and maintaining the Park as shall be provided for by regulation, and then only under the direction of the Ranger. Cutting timber. R.S.O. 1897, c. 47, s. 7.

8. No license shall be issued for the sale of intoxicating liquors within the Park nor within one mile thereof, and any intoxicating liquor found within the limits of the Park may be seized and destroyed by the Ranger or by any constable or license inspector having authority within the County of Kent, and the Ranger shall have all the powers and authority of a License Inspector for the purpose of enforcing the pro- Sale of intoxicating liquors within the park.

Rev. Stat.
c. 245.

visions of *The Liquor License Act* and of this Act, within the limits of the Park, and shall for all purposes have the powers of a member of the Ontario Police Force. R.S.O. 1897, c. 47, s. 8.

Hunting of
game pro-
hibited.

9.—(1) No person shall at any time shoot, hunt, take or kill any partridge, prairie fowl, quail, woodcock, snipe, wild turkey, or other bird or fowl within the Park; nor shall anyone shoot, hunt, trap, take or kill any wild animal or bird in the Park, except foxes, skunks, weasels, owls, hawks or other noxious animals or birds, and as to such excepted animals and birds only after obtaining the authority in writing of the Ranger; but this shall not prevent or apply to shooting or taking wild duck or geese in the waters around and along the coasts of the Park during the lawful season, and in accordance with the regulations hereinafter authorized.

Regulation of
the killing of
birds near
the park.

(2) The Lieutenant-Governor in Council may make regulations as to the shooting, hunting, taking or killing within two miles of the Park or within Rondeau Harbour of any bird or fowl protected by the provisions of this Act.

Penalty.

(3) Any person offending against the provisions of this section or violating the provisions of such regulations shall for each offence incur a penalty not exceeding \$50 and not less than \$20. R.S.O. 1897, c. 47, s. 9.

Offences to
which no
special
penalty
attached.

10. Where no penalty is herein or otherwise provided, any person violating any provision of this Act shall incur a penalty not exceeding \$25, and in default of payment thereof shall be liable to imprisonment for a period not exceeding three months. R.S.O. 1897, c. 47, s. 10.

Liability of
offenders for
damages.

11. In addition to any penalty provided by this Act for the violation of any of its provisions, the offender shall be liable for all damages caused by him, and the same may be recovered in any court of competent jurisdiction. R.S.O. 1897, c. 47, s. 11.

Application
of fines.

12.—(1) One-half of every penalty imposed by or under the authority of this Act shall belong to His Majesty, and the other half when collected shall be paid over to the prosecutor or informant, together with any costs which he may have incurred and which may be collected.

(2) The Ranger shall not be entitled to a share of, or to participate in, any penalty. R.S.O. 1897, c. 47, s. 14.

13. Save where otherwise provided by this Act, the provisions of *The Ontario Summary Convictions Act* shall apply to prosecutions and proceedings under this Act. R.S.O. 1897, c. 47, s. 15. ^{Application of Rev. Stat. c. 90.}

14. Chapter 47 of the Revised Statutes of Ontario, 1897, Repeal. and all amendments thereto are repealed.

No. 149.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to establish a Provincial Park
at Rondeau.

First Reading	day of	1910.
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Mr. COCHRANE.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

The Woodman's Lien for Wages Act.

SHORT TITLE, s. 1.	Payment into court, s. 24.
TERRITORY TO WHICH ACT APPLIES, s. 2.	Advertisement for claims, s. 25.
INTERPRETATION, s. 3.	Adjudication upon, ss. 26, 27.
PROCEEDINGS IN PROVISIONAL COUNTY OF HALIBURTON, s. 4.	Discharge of lien if nothing done, s. 28.
AGREEMENTS WAIVING RIGHTS UNDER ACT VOID, s. 5.	Costs, s. 29.
WHO ENTITLED TO LIEN, s. 6.	Distribution of surplus, s. 30.
LIEN TO CEASE UNLESS PROCEEDINGS TAKEN, s. 7.	Where action not prosecuted, s. 31.
STATEMENT OF LIEN TO BE FILED, ss. 8, 9.	Other remedies not affected, s. 32.
SALE NOT TO AFFECT LIEN, s. 10.	Lien holders may join, s. 33.
ENFORCEMENT OF LIEN:	Transfer of proceedings to District Court, s. 34.
Action and attachment, ss. 11-19.	Where actions commenced in several courts, s. 35.
Transit within district not to be prevented, s. 20.	Practice, s. 36.
Separation of logs, s. 21.	MALICIOUS PROCEEDINGS, s. 37.
Restoration of logs upon security, s. 22.	WAGES, HOW TO BE PAID, ss. 38, 39.
Notice of dispute, s. 23.	FORMS OF PROCEEDINGS, s. 40.
	REPEAL, s. 41.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1 This Act may be cited as "*The Woodman's Lien for Short title. Wages' Act.*" R.S.O. 1897, c. 154, s. 1.

2. This Act shall apply only to the Provisional County of Haliburton and to the Provisional Judicial Districts. Application of Act.
R.S.O. 1897, c. 154, s. 3; 9 Edw. VII. c. 26, s. 7, (2).

3. In this Act,

Interpretation.

- (a) "Bailiff" shall include a constable who under *The "Bailiff." Division Courts Act* may execute an attachment or perform other service. R.S.O. 1897, c. 154, s. 2 (2-4).

"Labour."

(b) "Labour" shall mean and include cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber and any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith;

"Logs or timber."

(c) "Logs or timber" shall mean and include logs, cordwood, timber, cedar posts, telegraph poles, railroad ties, tan bark, pulpwood, shingle bolts and staves or any of them. R.S.O. 1897, c. 154, s. 2 (1); 61 V. c. 17, s. 1; 9 Edw. VII. c. 26, s. 7 (1).

Proceedings
in Provisional
County of
Haliburton.

4. Wherever in this Act any act is required to be done by, or any paper to be filed or proceedings taken in the office of the Clerk of the District Court of a District or jurisdiction is conferred upon a District Court or the Judge thereof, the like acts may be done, papers filed and proceedings taken by and in the office of the Clerk of the County Court of the County of Victoria, and the like jurisdiction may be exercised by that court or a Judge thereof in respect of matters arising in the Provisional County of Haliburton. See R.S.O. 1897, c. 154, s. 6 (7).

Contracts
waiving
application of
Act to be
void.

5.—(1) Every agreement, verbal or written, express or implied, on the part of any person employed in labour that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person shall be null and void.

(2) This section shall not apply to any manager, officer or foreman, or to any person whose wages are more than \$3 a day. R.S.O. 1897, c. 154, s. 4.

Lien for
labour on
logs or
timber.

6.—(1) A person performing labour shall have a lien upon the logs or timber in connection with which the labour is performed for the amount due for such labour, and the same shall have precedence over all other claims or liens thereon, except a claim or lien of the Crown for any dues or charges or which a timber slide company or an owner of a slide or boom may have thereon for tolls. R.S.O. 1897, c. 154, s. 5 (1).

Contractors,
with respect
to labour or
services to be
performed on
timber got
out for
export.

(2) A contractor who has entered into any agreement under the terms of which he himself or by others in his employ has cut, removed, taken out or driven logs or timber, shall be deemed to be a person performing labour upon logs or timber within the meaning of this section, and such cutting, removal, taking out and driving shall be deemed to be

the performance of labour, within the meaning of this section. R.S.O. 1897, c. 154, s. 5 (2); 3 Edw. VII. c. 7, s. 61.

7. The lien shall cease unless the claim therefor is filed and proceedings are taken to enforce the same as hereinafter provided. R.S.O. 1897, c. 154, s. 6 (1). Lien to cease unless proceedings taken.

8.—(1) The person claiming the lien shall state his claim in writing, Form I, setting out briefly the nature of the claim, the amount claimed to be due and a description of the logs or timber upon which the lien is claimed. Claim of lien to be filed.

(2) The claim shall be verified by the affidavit of the claimant, his solicitor or agent. R.S.O. 1897, c. 154, ss. 6 (1) and 7. Verified by affidavit.

(3) In the case of a contractor coming within the provisions of subsection 2 of section 6 the claim and affidavit shall be filed on or before the first day of September next following the performing of the labour. Time for filing claim.

(4) In other cases, if the labour was performed between the first day of October and the 1st day of April next thereafter the claim shall be filed on or before the 30th day of the same month of April, but if the labour was performed on or after the 1st day of April and before the 1st day of October in any year the claim shall be filed within thirty days after the last day on which such labour or any part thereof was performed. R.S.O. 1897, c. 154, s. 8 (1 and 2).

9.—(1) Except as hereinafter provided the claim and affidavit shall be filed in the office of the District Court of the Provisional Judicial District in which the labour or some part thereof was performed. Place for filing claim

(2) Where the labour was performed upon logs or timber got out to be run down or which have been run down any of the rivers or streams flowing into the Georgian Bay, Lake Huron, Lake Superior, Lake of the Woods, Rainy Lake or Rainy River or Pigeon River, the claim may, at the option of the claimant, be filed in the office of the Clerk of the District Court of the district in which the labour was performed or in the office of the Clerk of the District Court of the district in which the drive terminates or reaches the waters of such bay, lake or river.

(3) Where the labour or some part of it was performed in the Provisional County of Haliburton the claim may be filed in the office of the Clerk of the County Court of the County of Victoria. R.S.O. 1897, c. 154, s. 6 (2 and 3).

Sale not to
affect lien.

10. No sale or transfer of the logs or timber during the time limited for the filing of the claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, shall affect the lien but the same shall remain in force against such logs and timber in whosoever possession the same shall be found. R.S.O. 1897, c. 154, s. 9.

Enforcement
of liens by
suit in
District or
Division
Courts.

11.—(1) Any person having a lien upon logs or timber may enforce the same by suit, where the claim does not exceed \$200, in the Division Court within whose jurisdiction the logs or timber or any part thereof may be at the time of the commencement of the suit, or where the claim exceeds \$200, in the proper District Court where the claim is filed, and such suit may be commenced to enforce such lien, if the claim is then payable, immediately after the filing of the claim, or if credit has been given immediately after the expiry of the period of credit, and such lien shall cease unless the proceedings to enforce the same are commenced within 30 days after the filing of the claim, or after the expiry of the period of credit.

(2) In all such suits the person liable for the payment of the claim shall be made the party defendant. R.S.O. 1897, c. 154, s. 10.

Procedure.

12.—(1) There shall be attached to or endorsed upon the writ or summons a copy of the claim filed and no statement of claim shall be necessary unless ordered, and no pleading or notice of dispute or defence other than such as is required in a suit or proceeding in a Division Court shall be necessary whether the suit is brought in a District or in a Division Court.

(2) Where no dispute or defence is filed, judgment may be signed and execution issued.

(3) The Court or Judge may order particulars to be given or amendments to be made, or may add or strike out the names of parties and may set aside judgment and permit a dispute or defence to be filed, on such terms as may appear just.

(4) The writ or summons shall be in the form as nearly as may be of that in use in the court in which it is issued, but the practice thereafter shall follow as nearly as may be that of the Division Court.

(5) A writ or summons may be served anywhere in Ontario in the same manner as in other cases.

(6) The judgment shall declare that the same is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case. R.S.O. 1897, c. 154, s. 11.

13. Where an execution has been placed in the hands of a sheriff or bailiff for execution and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims and the payment of money into court and the distribution of the money and otherwise shall, as far as practicable, be the same as is hereinafter provided for proceedings upon and subsequent to an attachment. R.S.O. 1897, c. 154, s. 12.

Procedure subsequent to execution in certain cases

14.—(1) Where an attachment issues in the first instance, the statement of claim and defence and proceedings to judgment shall be the same as where a suit has been begun by writ or summons.

Procedure where attachment issues.

(2) Where an attachment issues after proceedings have been commenced by writ or summons the proceedings, except such as are necessary to be taken under the attachment, shall be carried to judgment under the writ or summons. R.S.O. 1897, c. 154, s. 13.

15. The forms of attachment shall be as nearly as may be the same as are in use in the District Courts or in the Division Courts. R.S.O. 1897, c. 154, s. 14 (*part*).

Form of attachment

16.—(1) Whether the proceedings are commenced by writ or summons or attachment, the Judge may direct that the same shall be disposed of summarily by him without waiting for the regular sittings of the Court, upon such terms as to notice and otherwise as he may deem proper, and the same may be so disposed of.

Summary disposal of cases

(2) The Judge may set aside an attachment or seizure or direct the release of logs or timber that have been seized on such terms as he may deem proper. R.S.O. 1897, c. 154, s. 15.

17. Where the amount of the claim does not exceed \$200, and is not less than \$10, upon the production and filing of a copy of the claim and affidavit and an affidavit of the claimant verifying the claim, and showing that the same has been filed and stating that

When attachment to issue from Division Court.

- (a) He has good reason to believe and does believe that the logs or timber are about to be removed out of Ontario, or
- (b) That the person indebted has absconded from Ontario, with intent to defraud or defeat his creditors, or
- (c) That the logs or timber are about to be cut into lumber or other timber so that the same cannot be identified, and
- (d) That he is in danger of losing his claim, if attachment does not issue,

and if affidavits of two persons corroborating the affidavit of the plaintiff in respect of clauses (a), (b) or (c), are also filed, the Clerk of the proper Division Court shall issue a warrant as in the case of an attachment under section 257 of *The Division Courts Act*, directed to the bailiff of the Division Court commanding such bailiff to attach, seize, take and safely keep such logs or timber, or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien, and to return the warrant forthwith to the court out of which the same issued. R.S.O. 1897, c. 154, s. 16.

Rev. Stat.
c. 60.

When attachment to issue out of District Court.

18.—(1) Where the amount claimed exceeds \$200, upon the filing of a copy of the claim and affidavit, the Clerk of the District Court of the district where the action may be brought, upon the filing of an affidavit made by the claimant showing such facts as would authorize the issue of an attachment under the next preceding section and such affidavits in corroboration as is provided in the next preceding section shall issue a writ of attachment directed to the sheriff of the district commanding him to attach, seize and take and safely keep the logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien.

(2) Where additional claims are made, or the amount of the claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under the execution or attachment. R.S.O. 1897, c. 154, s. 17.

Warrant or writ to be served on defendant and the owner of logs.

19.—(1) The warrant or writ of attachment shall also, where no writ or summons has issued, summon the defendant to appear before the District Court or Division Court out of

which the attachment issued, and a copy of the writ of attachment shall be served upon the defendant, and if the defendant is not the owner of the logs or timber described in the warrant or writ a copy of the warrant or writ of attachment shall also be served upon the owner of the logs or timber or upon the person or agent in whose possession, custody or control they may be found.

(2) When a warrant or writ is served upon a person in possession an order of the Judge allowing the service shall be necessary.

(3) Where the defendant or the owner of the logs or timber cannot be found within the district and there is no one in possession of the logs or timber a copy of the warrant or writ may be forwarded to the sheriff of any county or district or the bailiff of any Division Court within whose jurisdiction the defendant or the owner resides or may be found, and such copy may be served by the sheriff or the bailiff upon the defendant or the owner.

Services where no one in possession of logs.

(4) The owner may on his own application or by direction of the Judge be made a party defendant.

(5) If the defendant or the owner cannot be found within Ontario or the owner cannot be ascertained and no person is in possession of the logs or timber the warrant or writ may be served in such manner as the Judge directs.

When defendant or owner not in Province, etc.

(6) Notwithstanding that a defence has not been entered the Judge may admit the defendant and the owner or either of them to make full defence upon such terms as he may deem just. R.S.O. 1897, c. 154, s. 18.

Admission of parties to make defence.

20. A sheriff or bailiff shall not seize or detain under a warrant or writ of attachment any logs or timber when in transit from the place where cut to the place of destination when such place of destination is within the district in which the proceedings were commenced, but if such logs or timber are so in transit or are in the possession of any person for the purpose of being driven or sorted and delivered to the owner or to satisfy any statutory lien, attachment of the logs or timber may be made by serving a copy of the warrant or writ upon the person in whose possession, custody or control they are, who shall from the time of such service hold the same both on his own behalf and for the sheriff or bailiff to the extent of the lien, until the logs or timber have reached their place of destination or are driven or sorted, as the case may be, and when they have reached their place of destination or are driven or sorted, the sheriff or bailiff may receive the logs

Logs or timber in transit within district not to be detained.

or timber from such person, and the statutory lien of such person shall not be released by the holding of such sheriff or bailiff. R.S.O. 1897, c. 154, s. 19.

Separation of logs.

Rev. Stat. c. 143.

21. The claimant or the plaintiff, and the sheriff or bailiff may, by leave of the Judge, take any proceedings which the owner of any logs or timber may take under *The Saw Logs Driving Act* for the purpose of procuring the separation of any logs or timber so seized by the sheriff or bailiff under this Act from other logs or timber with which they have become intermixed, or a sale may be made without such separation if the Judge so directs. R.S.O. 1897, c. 154, s. 20.

Sheriff or Bailiff to restore possession upon execution of bond.

22. In case of an attachment, if the owner of the logs or timber or any person on his behalf executes and files with the clerk of the court out of which the attachment issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the clerk conditioned for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, the clerk shall issue an order to the sheriff or bailiff having in charge the logs or timber directing their release, and upon service of such order upon the sheriff or bailiff he shall release the same. R.S.O. 1897, c. 154, s. 21.

Persons served to enter notice of dispute.

23.—(1) Any person who has been served with a copy of the warrant or writ of attachment, and who desires to dispute the claim shall within 14 days after such service enter in the court in which proceedings are pending a notice that he disputes the claim in whole or in part.

If no notice of dispute entered judgment may be entered.

(2) If no notice of dispute is entered judgment may be entered as in the case of default, and the practice and procedure shall be the same as in a suit begun by writ or summons. R.S.O. 1897, c. 154, s. 22.

Persons served with attachment may pay amount claimed into court.

24.—(1) The defendant may, at any time before the sale of the logs or timber, pay into court the amount for which the lien is claimed, together with the amount for which a lien is claimed in any other suit, and also the costs of the proceedings to the date of such payment to be taxed by the clerk of the court if required, and shall thereupon be entitled to a certificate vacating the liens.

(2) Upon such certificate being filed with the clerk of the court in which the claim was filed, the liens shall be vacated and all further proceedings thereon shall cease, and the defendant shall be entitled to an order directing the delivery up of the logs or timber seized under the attachment, or the

cancellation of any bond given under section 22. R.S.O. 1897, c. 154, s. 23.

25.—(1) After the expiration of the time within which a notice of dispute may be entered, the Judge shall, upon the application of the plaintiff, appoint a day upon which all persons claiming a lien on the logs or timber shall appear before him, for the adjustment of their claims and the settlement of accounts. Day to be fixed by advertisement for hearing parties interested, taking accounts, etc.

(2) The appointment shall be served upon the defendants and upon the owner, if the Judge so directs, and shall also, if the Judge so directs, be published once a week for two weeks before the day appointed in a newspaper having a general circulation in the district in which proceedings are pending.

(3) A copy of the appointment shall also be sent by registered post to every claimant known to the plaintiff and to the Minister of Lands, Forests and Mines at least two weeks before the day appointed, directed to the post office address of such claimant where the same is known, and if not known then to his last known address. R.S.O. 1897, c. 154, s. 24. Appointment to be mailed to lien-holders.

26.—(1) Upon the day named in the appointment the persons served with a copy thereof and all other persons claiming a lien on the logs or timber who have prior to that date filed with the clerk a notice claiming a lien on the logs or timber and stating the nature and amount of their claims, shall attend before the Judge. Parties filing notices of disputes or claims to attend on day named in appointment.

(2) Where a claim is brought in pursuant to the notice it may be established *prima facie* by affidavit, but any person interested may cross-examine a deponent, and may require that the claim be established as in other cases. R.S.O. 1897, c. 154, s. 25. Proof of claims.

(3) The Judge shall hear all parties and take all accounts necessary to determine the amounts due to the claimants, and shall tax costs, and determine by whom the same shall be paid, and settle priorities and generally determine all such matters as may be necessary for the adjustment of the rights of all parties. R.S.O. 1897, c. 154, s. 26. Judge to hear all parties, take accounts, etc.

27.—(1) At the conclusion of the enquiry the Judge shall make his report and order, which shall state his findings and direct the payment into court within ten days thereafter of the amounts found due and the costs, and in default of payment that the logs or timber shall be sold by the sheriff or bailiff, for the satisfaction thereof. R.S.O. 1897, c. 154, s. 27. Order to be made by Judge at conclusion of enquiry.

In default of payment into court logs or timber to be sold.

(2) In default of payment into court within the time named in the order, the logs or timber shall within twenty days thereafter be sold by the sheriff or bailiff in the same manner and subject to the same provisions of law as goods seized or taken in execution, or after such additional publicity has been given to the sale as the Judge may direct.

(3) The amount realized by the sale shall, after deducting the expenses thereof, and the fees and poundage of the sheriff or bailiff, be paid into court, and shall be paid out by the clerk to the parties entitled thereto under the order of the Judge.

Judge to apportion.

(4) Where the amount realized upon the sale is not sufficient to pay the claims and costs in full, the Judge shall apportion the amount realized *pro rata* among the claimants. R.S.O. 1897, c. 154, s. 28.

Certificate of balance due after distribution to be entered as a judgment.

(5) Where after sale and distribution any balance remains due to any person under the order of the Judge, the clerk shall, upon application of such person give to him a certificate that such amount remains due, and such certificate may be entered as a judgment in the District Court or Division Court having jurisdiction against the person by whom the claim is directed to be paid, and execution may be issued thereupon. R.S.O. 1897, c. 154, s. 29.

Where nothing found due on enquiry, lien to be discharged.

28. Where nothing is found due upon the several claims filed or upon the lien with respect to which proceedings have been taken, the Judge may order that the lien be discharged and the logs or timber released or the security given therefor delivered up and cancelled, and may order payment of any costs which may be found due to the defendant or the owner of the logs or timber. R.S.O. 1897, c. 154, s. 30.

Costs.

29.—(1) Where the taxed costs, exclusive of necessary disbursements, which are payable out of the amount realized for the satisfaction of the lien exceed twenty-five per cent. of the amount realized, such costs, upon application by any party may be reduced by the Judge, so that the same shall not in the aggregate exceed twenty-five per cent. and no more costs than such reduced amount shall be recovered between party and party or solicitor and client.

(2) The costs in addition to actual and necessary disbursements which may be taxed to any claimant proving an uncontested claim shall not exceed \$5 if a solicitor is employed, and, where the amount claimed is within the jurisdiction of the Division Court, shall not exceed \$2 where a solicitor is employed.

(3) In case of a contest, where a solicitor is employed, the Judge may allow such costs not exceeding in any case \$10

when taxed on the District Court scale or \$5 when taxed on the Division Court scale in addition to actual and necessary disbursements, but where the claim does not exceed \$50 then such costs shall not exceed \$3.

(4) Subject to the provisions of this section, the costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the court in which proceedings under this Act have been taken. R.S.O. 1897, c. 154, s. 31.

30.—(1) Where money paid into court as the proceeds of the sale of logs or timber is more than sufficient to satisfy the claims which have been proved with interest and costs the Judge, upon the application of any creditor within thirty days from the day fixed by the order for payment, shall order that such remaining money be paid over to the sheriff, who shall hold and distribute the same as provided by *The Creditors' Relief Act* in the case of money levied under execution, and all parties having claims may take the like proceedings as those provided by *The Creditor's Relief Act* for proving claims and obtaining certificates or executions. Disposition of balance after sale and satisfaction of liens. 9 Edw. VII, c. 48.

(2) If no such application is made to the Judge within such period of thirty days, the Judge may order payment out of court of any remaining money to the person entitled thereto. R.S.O. 1897, c. 154, s. 32.

31. Any person affected by proceedings taken under this Act may apply to the Judge to dismiss the same for want of prosecution, and the Judge may make such order upon the application as he may deem just. R.S.O. 1897, c. 154, s. 33. Dismissal of proceedings for want of prosecution.

32.—(1) Nothing in this Act shall deprive any person of any other remedy to which he may be entitled for the recovery of any amount due in respect of labour performed upon or in connection with any logs or timber. Other remedies not affected.

(2) Where an action is brought to enforce a lien, but no lien is found to exist in respect of the claim, judgment may be given for any amount found due as in an ordinary action. R.S.O. 1897, c. 154, s. 35.

33. Any number of lien holders may join in taking proceedings under this Act, or may assign their claims to any one or more persons, but the claim to be filed under section 8 shall include particular statements of the several claims joined which shall be verified by the affidavits of the persons so joining, or separate claims may be filed and one writ, summons or attachment issued on behalf of all the persons so joining. R.S.O. 1897, c. 154, s. 36. Any number of lien holders may join in proceedings.

Transfer of
suit from
Division
Court in case
proceedings
taken in
District
Court.

34. Where proceedings have been commenced in the District Court, and proceedings are brought or are thereafter pending in respect of the same logs or timber, or any part of them, in a Division Court, the Judge may order the proceedings in the Division Court to be adjourned before him, and shall in his inquiry include the claims in respect of which proceedings are pending in the Division Court, and thereafter all persons who have filed claims in the Division Court shall be entitled to prove their claims and to share in the benefit of the proceedings in the District Court. R.S.O. 1897, c. 154, s. 37.

Where suits
in several
Courts.

35. Where suits are brought in several District Courts, or in several Division Courts, the procedure under sections 25 to 27 shall be had in the District or Division Court out of which an execution or attachment first issued, unless the Judge of such court shall otherwise order. R.S.O. 1897, c. 154, s. 38.

Practice.

36. The practice and procedure in actions brought in the District Courts or in Division Courts, shall, so far as they are not inconsistent with this Act, apply to proceedings taken under this Act. R.S.O. 1897, c. 154, s. 39.

Liability for
loss occa-
sioned by
improper
seizure.

37. Any person who unlawfully and maliciously, and without reasonable and probable cause, takes, or causes to be taken proceedings under this Act by which logs or timber are seized, detained or sold, shall be liable therefor in an action at the suit of any person aggrieved thereby, and shall also be liable for all loss and damage occasioned by such seizure, by reason of such logs or timber breaking away or being scattered or lost, or otherwise. R.S.O. 1897, c. 154, s. 40.

Illegal pay-
ments.

38.—(1) No payment of wages shall be made or offered to any person for any labour performed upon or in connection with any logs or timber by any cheque, order, I.O.U., bill of exchange, promissory note, or other undertaking (other than a bank note or bill), drawn upon or payable at or within any place out of Ontario. R.S.O. 1897, c. 154, s. 41.

Penalties.

(2) Any person violating, or who shall direct or knowingly suffer his agent or servant to violate the provisions of this section shall incur a penalty of not less than \$5 and not more than \$20, to be recovered under the provisions of *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 154, s. 42.

Rev. Stat.
c. 90.

Illegal pay-
ments not to
be allowed as
a defence in
any action.

39. No payment made or offered to be made in violation of section 38, shall be a defence to an action or proceeding for the recovery of wages, or be receivable in evidence therein, nor shall any such payment or offer of payment in any way affect any claim of lien for labour on logs or timber under this Act, but in case of the sale, or transfer of any instrument

mentioned in section 38, in whole or in part, by the payee, the consideration received by him shall be treated as payment on account. R.S.O. 1897, c. 154, s. 43.

40. The Judges of the District Courts, or a majority of ^{Forms of proceeding.} them, may prepare and adopt forms of writs, summonses, attachments and other forms for the more convenient carrying out of the provisions of this Act, and thereafter the same shall be used instead of the forms prescribed by this Act. R.S.O. 1897, c. 154, s. 14 (*part.*)

41. Chapter 154 of the Revised Statutes, 1897, and all ^{Repeal.} amendments thereto are repealed.

FORM 1.

CLAIM OF LIEN.

A. B., (*name of claimant*) of (*state residence of claimant*), (*if claim made as assignee then say as assignee of giving name and address of assignor*) under *The Woodman's Lien for Wages Act*, claims a lien upon certain logs or timber of (*here state the name and residence of the owner of logs or timber upon which the lien is claimed if known*) which logs and timber are composed of (*state the kinds of logs and timber such as pine sawlogs, cedar or other posts or railway ties, shingle bolts or staves, etc., also where situate at time of filing of claim*) in respect of the following work, that is to say, (*here give a short description of the work done for which the lien is claimed*) which work was done for (*here state the name and residence of the person upon whose credit the work was done*) between the day of and the day of at per (*month or day as the case may be*).

The amount claimed as due (*or to become due*) is the sum of (*and when credit has been given, the said work was done on credit, and the period of credit will expire on the day of*).

Dated at this day of , 19 .

(*Signature of Claimant*).

AFFIDAVIT TO BE ATTACHED TO CLAIM.

I make oath and say that I have read (*or have heard read*) the foregoing claim, and that the facts therein set forth are, to the best of my knowledge and belief, true, and that the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which the said (*naming the debtor*) is entitled to credit.

Sworn before me at in the district }
of this day of , 19 . }

A Commissioner.

R.S.O. 1897, c. 154, Sched.

No. 150.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

The Woodman's Lien for Wages Act.

First Reading	day of	1910
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Mr. COCHRANE

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

The Woodman's Lien for Wages Act.

SHORT TITLE, s. 1.
 TERRITORY TO WHICH ACT APPLIES,
 s. 2.
 INTERPRETATION, s. 3.
 PROCEEDINGS IN PROVISIONAL
 COUNTY OF HALIBURTON, s. 4.
 AGREEMENTS WAIVING RIGHTS
 UNDER ACT VOID, s. 5.
 WHO ENTITLED TO LIEN, s. 6.
 LIEN TO CEASE UNLESS PROCEED-
 INGS TAKEN, s. 7.
 STATEMENT OF LIEN TO BE FILED,
 ss. 8, 9.
 SALE NOT TO AFFECT LIEN, s. 10.
 ENFORCEMENT OF LIEN:
 Action and attachment, ss. 11-
 19.
 Transit within district not to
 be prevented, s. 20.
 Separation of logs, s. 21.
 Restoration of logs upon se-
 curity, s. 22.
 Notice of dispute, s. 23.

Payment into court, s. 24.
 Advertisement for claims, s.
 25.
 Adjudication upon, ss. 26, 27.
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 Where action not prosecuted,
 s. 31.
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 s. 32.
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 Transfer of proceedings to Dis-
 trict Court, s. 34.
 Where actions commenced in
 several courts, s. 35.
 Practice, s. 36.
 MALICIOUS PROCEEDINGS, s. 37.
 WAGES, HOW TO BE PAID, ss. 38,
 39.
 FORMS OF PROCEEDINGS, s. 40.
 REPEAL, s. 41.

HIS MAJESTY, by and with the advice and consent of
 the Legislative Assembly of the Province of Ontario,
 enacts as follows:—

1 This Act may be cited as "*The Woodman's Lien for Short title.
 Wages' Act.*" R.S.O. 1897, c. 154, s. 1.

2. This Act shall apply only to the Provisional County Application of
 of Haliburton and to the Provisional Judicial Districts. Act.
 R.S.O. 1897, c. 154, s. 3; 9 Edw. VII. c. 26, s. 7, (2).

3. In this Act,

Interpreta-
 tion.

- (a) "Bailiff" shall include a constable who under *The "Bailiff."
 Division Courts Act* may execute an attachment
 or perform other service. R.S.O. 1897, c. 154,
 s. 2 (2-4).

"Labour."

(b) "Labour" shall mean and include cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber and any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith;

"Logs or timber."

(c) "Logs or timber" shall mean and include logs, cordwood, timber, cedar posts, telegraph poles, railroad ties, tan bark, pulpwood, shingle bolts and staves or any of them. R.S.O. 1897, c. 154, s. 2 (1); 61 V. c. 17, s. 1; 9 Edw. VII. c. 26, s. 7 (1).

Proceedings
in Provisional
County of
Haliburton.

4. Wherever in this Act any act is required to be done by, or any paper to be filed or proceedings taken in the office of the Clerk of the District Court of a District or jurisdiction is conferred upon a District Court or the Judge thereof, the like acts may be done, papers filed and proceedings taken by and in the office of the Clerk of the County Court of the County of Victoria, and the like jurisdiction may be exercised by that court or a Judge thereof in respect of matters arising in the Provisional County of Haliburton. See R.S.O. 1897, c. 154, s. 6 (7).

Contracts
waiving
application of
Act to be
void.

5.—(1) Every agreement, verbal or written, express or implied, on the part of any person employed in labour that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person shall be null and void.

(2) This section shall not apply to any manager, officer or foreman, or to any person whose wages are more than \$3 a day. R.S.O. 1897, c. 154, s. 4.

Lien for
labour on
logs or
timber.

6.—(1) A person performing labour shall have a lien upon the logs or timber in connection with which the labour is performed for the amount due for such labour, and the same shall have precedence over all other claims or liens thereon, except a claim or lien of the Crown for any dues or charges or which a timber slide company or an owner of a slide or boom may have thereon for tolls. R.S.O. 1897, c. 154, s. 5 (1).

Contractors,
with respect
to labour or
services to be
performed on
timber got
out for
export.

(2) A contractor who has entered into any agreement under the terms of which he himself or by others in his employ has cut, removed, taken out or driven logs or timber, shall be deemed to be a person performing labour upon logs or timber within the meaning of this section, and such cutting, removal, taking out and driving shall be deemed to be

the performance of labour, within the meaning of this section. R.S.O. 1897, c. 154, s. 5 (2); 3 Edw. VII. c. 7, s. 61.

7. The lien shall cease unless the claim therefor is filed and proceedings are taken to enforce the same as hereinafter provided. R.S.O. 1897, c. 154, s. 6 (1). Lien to cease unless proceedings taken.

8.—(1) The person claiming the lien shall state his claim in writing, Form I, setting out briefly the nature of the claim, the amount claimed to be due and a description of the logs or timber upon which the lien is claimed. Claim of lien to be filed.

(2) The claim shall be verified by the affidavit of the claimant, his solicitor or agent. R.S.O. 1897, c. 154, ss. 6 (1) and 7. Verified by affidavit.

(3) In the case of a contractor coming within the provisions of subsection 2 of section 6 the claim and affidavit shall be filed on or before the first day of September next following the performing of the labour. Time for filing claim.

(4) In other cases, if the labour was performed between the first day of October and the 1st day of April next thereafter the claim shall be filed on or before the 30th day of the same month of April, but if the labour was performed on or after the 1st day of April and before the 1st day of October in any year the claim shall be filed within thirty days after the last day on which such labour or any part thereof was performed. R.S.O. 1897, c. 154, s. 8 (1 and 2).

9.—(1) Except as hereinafter provided the claim and affidavit shall be filed in the office of the District Court of the Provisional Judicial District in which the labour or some part thereof was performed. Place for filing claim

(2) Where the labour was performed upon logs or timber got out to be run down or which have been run down any of the rivers or streams flowing into the Georgian Bay, Lake Huron, Lake Superior, Lake of the Woods, Rainy Lake or Rainy River or Pigeon River, the claim may, at the option of the claimant, be filed in the office of the Clerk of the District Court of the district in which the labour was performed or in the office of the Clerk of the District Court of the district in which the drive terminates or reaches the waters of such bay, lake or river.

(3) Where the labour or some part of it was performed in the Provisional County of Haliburton the claim may be filed in the office of the Clerk of the County Court of the County of Victoria. R.S.O. 1897, c. 154, s. 6 (2 and 3).


Sale not to
affect lien.



10. No sale or transfer of the logs or timber during the time limited for the filing of the claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, shall affect the lien but the same shall remain in force against such logs and timber in whosoever possession the same shall be found. R.S.O. 1897, c. 154, s. 9.

Enforcement
of liens by
suit in
District or
Division
Courts.

11.—(1) Any person having a lien upon logs or timber may enforce the same by suit, where the claim does not exceed \$200, in the Division Court within whose jurisdiction the logs or timber or any part thereof may be at the time of the commencement of the suit, or where the claim exceeds \$200, in the proper District Court where the claim is filed, and such suit may be commenced to enforce such lien, if the claim is then payable, immediately after the filing of the claim, or if credit has been given immediately after the expiry of the period of credit, and such lien shall cease unless the proceedings to enforce the same are commenced within 30 days after the filing of the claim, or after the expiry of the period of credit.

(2) In all such suits the person liable for the payment of the claim shall be made the party defendant. R.S.O. 1897, c. 154, s. 10.

 (3) Where the defendant is not the owner of the logs a copy of the writ shall be served on the owner as well as the defendant, or the person or agent in whose possession, custody or control they may be found, or the person in charge of the operations in respect of which the claim of lien arose.

 (4) The owner may on his own application, or by direction of the Judge, be made a party defendant. 

Procedure.

12.—(1) There shall be attached to or endorsed upon the writ or summons a copy of the claim filed and no statement of claim shall be necessary unless ordered, and no pleading or notice of dispute or defence other than such as is required in a suit or proceeding in a Division Court shall be necessary whether the suit is brought in a District or in a Division Court.

(2) Where no dispute or defence is filed, judgment may be signed and execution issued.

(3) The Court or Judge may order particulars to be given or amendments to be made, or may add or strike out the names of parties and may set aside judgment and permit a dispute or defence to be filed, on such terms as may appear just.

(4) The writ or summons shall be in the form as nearly as may be of that in use in the court in which it is issued, but the practice thereafter shall follow as nearly as may be that of the Division Court.

(5) A writ or summons may be served anywhere in Ontario in the same manner as in other cases.

(6) The judgment shall declare that the same is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case. R.S.O. 1897, c. 154, s. 11.

13. Where an execution has been placed in the hands of a sheriff or bailiff for execution and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims and the payment of money into court and the distribution of the money and otherwise shall, as far as practicable, be the same as is hereinafter provided for proceedings upon and subsequent to an attachment. R.S.O. 1897, c. 154, s. 12.

Procedure subsequent to execution in certain cases

14.—(1) Where an attachment issues in the first instance, the statement of claim and defence and proceedings to judgment shall be the same as where a suit has been begun by writ or summons.

Procedure where attachment issues.

(2) Where an attachment issues after proceedings have been commenced by writ or summons the proceedings, except such as are necessary to be taken under the attachment, shall be carried to judgment under the writ or summons. R.S.O. 1897, c. 154, s. 13.

15. The forms of attachment shall be as nearly as may be the same as are in use in the District Courts or in the Division Courts. R.S.O. 1897, c. 154, s. 14 (*part*).

Form of attachment.

16.—(1) Whether the proceedings are commenced by writ or summons or attachment, the Judge may direct that the same shall be disposed of summarily by him without waiting for the regular sittings of the Court, upon such terms as to notice and otherwise as he may deem proper, and the same may be so disposed of.

Summary disposal of cases.

(2) The Judge may set aside an attachment or seizure or direct the release of logs or timber that have been seized on such terms as he may deem proper. R.S.O. 1897, c. 154, s. 15.

17. Where the amount of the claim does not exceed \$200, and is not less than \$10, upon the production and filing of a copy of the claim and affidavit and an affidavit of the claimant verifying the claim, and showing that the same has been filed and stating that

When attachment to issue from Division Court.

- (a) He has good reason to believe and does believe that the logs or timber are about to be removed out of Ontario, or
- (b) That the person indebted has absconded from Ontario, with intent to defraud or defeat his creditors, or
- (c) That the logs or timber are about to be cut into lumber or other timber so that the same cannot be identified, and
- (d) That he is in danger of losing his claim, if attachment does not issue,

Rev. Stat.
c. 60.

and if affidavits of two persons corroborating the affidavit of the plaintiff in respect of clauses (a), (b) or (c), are also filed, the Clerk of the proper Division Court shall issue a warrant as in the case of an attachment under section 257 of *The Division Courts Act*, directed to the bailiff of the Division Court commanding such bailiff to attach, seize, take and safely keep such logs or timber, or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien, and to return the warrant forthwith to the court out of which the same issued. R.S.O. 1897, c. 154, s. 16.

When attachment to issue out of District Court.

18.—(1) Where the amount claimed exceeds \$200, upon the filing of a copy of the claim and affidavit, the Clerk of the District Court of the district where the action may be brought, upon the filing of an affidavit made by the claimant showing such facts as would authorize the issue of an attachment under the next preceding section and such affidavits in corroboration as is provided in the next preceding section shall issue a writ of attachment directed to the sheriff of the district commanding him to attach, seize and take and safely keep the logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien.

(2) Where additional claims are made, or the amount of the claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under the execution or attachment. R.S.O. 1897, c. 154, s. 17.

Warrant or writ to be served on defendant and the owner of logs.

19.—(1) The warrant or writ of attachment shall also, where no writ or summons has issued, summon the defendant to appear before the District Court or Division Court out of

which the attachment issued, and a copy of the writ of attachment shall be served upon the defendant, and if the defendant is not the owner of the logs or timber described in the warrant or writ a copy of the warrant or writ of attachment shall also be served upon the owner of the logs or timber or upon the person or agent in whose possession, custody or control they may be found.

(2) When a warrant or writ is served upon a person in possession an order of the Judge allowing the service shall be necessary.

(3) Where the defendant or the owner of the logs or timber cannot be found within the district and there is no one in possession of the logs or timber a copy of the warrant or writ may be forwarded to the sheriff of any county or district or the bailiff of any Division Court within whose jurisdiction the defendant or the owner resides or may be found, and such copy may be served by the sheriff or the bailiff upon the defendant or the owner.

Services where no one in possession of logs.

(4) The owner may on his own application or by direction of the Judge be made a party defendant.

(5) If the defendant or the owner cannot be found within Ontario or the owner cannot be ascertained and no person is in possession of the logs or timber the warrant or writ may be served in such manner as the Judge directs.

When defendant or owner not in Province, etc.

(6) Notwithstanding that a defence has not been entered the Judge may admit the defendant and the owner or either of them to make full defence upon such terms as he may deem just. R.S.O. 1897, c. 154, s. 18.

Admission of parties to make defence.

20. A sheriff or bailiff shall not seize or detain under a warrant or writ of attachment any logs or timber when in transit from the place where cut to the place of destination when such place of destination is within the district in which the proceedings were commenced, but if such logs or timber are so in transit or are in the possession of any person for the purpose of being driven or sorted and delivered to the owner or to satisfy any statutory lien, attachment of the logs or timber may be made by serving a copy of the warrant or writ upon the person in whose possession, custody or control they are, who shall from the time of such service hold the same both on his own behalf and for the sheriff or bailiff to the extent of the lien, until the logs or timber have reached their place of destination or are driven or sorted, as the case may be, and when they have reached their place of destination or are driven or sorted, the sheriff or bailiff may receive the logs

Logs or timber in transit within district not to be detained.

or timber from such person, and the statutory lien of such person shall not be released by the holding of such sheriff or bailiff. R.S.O. 1897, c. 154, s. 19.

Separation of logs.

Rev. Stat. c. 143.

21. The claimant or the plaintiff, and the sheriff or bailiff may, by leave of the Judge, take any proceedings which the owner of any logs or timber may take under *The Saw Logs Driving Act* for the purpose of procuring the separation of any logs or timber so seized by the sheriff or bailiff under this Act from other logs or timber with which they have become intermixed, or a sale may be made without such separation if the Judge so directs. R.S.O. 1897, c. 154, s. 20.

Sheriff or Bailiff to restore possession upon execution of bond.

22. In case of an attachment, if the owner of the logs or timber or any person on his behalf executes and files with the clerk of the court out of which the attachment issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the clerk conditioned for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, the clerk shall issue an order to the sheriff or bailiff having in charge the logs or timber directing their release, and upon service of such order upon the sheriff or bailiff he shall release the same. R.S.O. 1897, c. 154, s. 21.

Persons served to enter notice of dispute.

23.—(1) Any person who has been served with a copy of the warrant or writ of attachment, and who desires to dispute the claim shall within 14 days after such service enter in the court in which proceedings are pending a notice that he disputes the claim in whole or in part.

If no notice of dispute entered judgment may be entered.

(2) If no notice of dispute is entered judgment may be entered as in the case of default, and the practice and procedure shall be the same as in a suit begun by writ or summons. R.S.O. 1897, c. 154, s. 22.

Persons served with attachment may pay amount claimed into court.

24.—(1) The defendant may, at any time before the sale of the logs or timber, pay into court the amount for which the lien is claimed, together with the amount for which a lien is claimed in any other suit, and also the costs of the proceedings to the date of such payment to be taxed by the clerk of the court if required, and shall thereupon be entitled to a certificate vacating the liens.

(2) Upon such certificate being filed with the clerk of the court in which the claim was filed, the liens shall be vacated and all further proceedings thereon shall cease, and the defendant shall be entitled to an order directing the delivery up of the logs or timber seized under the attachment, or the

cancellation of any bond given under section 22. R.S.O. 1897, c. 154, s. 23.

25.—(1) After the expiration of the time within which a notice of dispute may be entered, the Judge shall, upon the application of the plaintiff, appoint a day upon which all persons claiming a lien on the logs or timber shall appear before him, for the adjustment of their claims and the settlement of accounts. Day to be fixed by advertisement for hearing parties interested, taking accounts, etc

(2) The appointment shall be served upon the defendants and upon the owner, if the Judge so directs, and shall also, if the Judge so directs, be published once a week for two weeks before the day appointed in a newspaper having a general circulation in the district in which proceedings are pending.

(3) A copy of the appointment shall also be sent by registered post to every claimant known to the plaintiff and to the Minister of Lands, Forests and Mines at least two weeks before the day appointed, directed to the post office address of such claimant where the same is known, and if not known then to his last known address. R.S.O. 1897, c. 154, s. 24. Appointment to be mailed to lien-holders.

26.—(1) Upon the day named in the appointment the persons served with a copy thereof and all other persons claiming a lien on the logs or timber who have prior to that date filed with the clerk a notice claiming a lien on the logs or timber and stating the nature and amount of their claims, shall attend before the Judge. Parties filing notices of disputes or claims to attend on day named in appointment.

(2) Where a claim is brought in pursuant to the notice it may be established *prima facie* by affidavit, but any person interested may cross-examine a deponent, and may require that the claim be established as in other cases. R.S.O. 1897, c. 154, s. 25. Proof of claims.

(3) The Judge shall hear all parties and take all accounts necessary to determine the amounts due to the claimants, and shall tax costs, and determine by whom the same shall be paid, and settle priorities and generally determine all such matters as may be necessary for the adjustment of the rights of all parties. R.S.O. 1897, c. 154, s. 26. Judge to hear all parties, take accounts, &c.

27.—(1) At the conclusion of the enquiry the Judge shall make his report and order, which shall state his findings and direct the payment into court within ten days thereafter of the amounts found due and the costs, and in default of payment that the logs or timber shall be sold by the sheriff or bailiff, for the satisfaction thereof. R.S.O. 1897, c. 154, s. 27. Order to be made by Judge at conclusion of enquiry.

In default of payment into court logs or timber to be sold.

(2) In default of payment into court within the time named in the order, the logs or timber shall within twenty days thereafter be sold by the sheriff or bailiff in the same manner and subject to the same provisions of law as goods seized or taken in execution, or after such additional publicity has been given to the sale as the Judge may direct.

(3) The amount realized by the sale shall, after deducting the expenses thereof, and the fees and poundage of the sheriff or bailiff, be paid into court, and shall be paid out by the clerk to the parties entitled thereto under the order of the Judge.

Judge to apportion.

(4) Where the amount realized upon the sale is not sufficient to pay the claims and costs in full, the Judge shall apportion the amount realized *pro rata* among the claimants. R.S.O. 1897, c. 154, s. 28.

Certificate of balance due after distribution to be entered as a judgment.

(5) Where after sale and distribution any balance remains due to any person under the order of the Judge, the clerk shall, upon application of such person give to him a certificate that such amount remains due, and such certificate may be entered as a judgment in the District Court or Division Court having jurisdiction against the person by whom the claim is directed to be paid, and execution may be issued thereupon. R.S.O. 1897, c. 154, s. 29.

Where nothing found due on enquiry, lien to be discharged.

28. Where nothing is found due upon the several claims filed or upon the lien with respect to which proceedings have been taken, the Judge may order that the lien be discharged and the logs or timber released or the security given therefor delivered up and cancelled, and may order payment of any costs which may be found due to the defendant or the owner of the logs or timber. R.S.O. 1897, c. 154, s. 30.

Costs.

29.—(1) Where the taxed costs, exclusive of necessary disbursements, which are payable out of the amount realized for the satisfaction of the lien exceed twenty-five per cent. of the amount realized, such costs, upon application by any party may be reduced by the Judge, so that the same shall not in the aggregate exceed twenty-five per cent. and no more costs than such reduced amount shall be recovered between party and party or solicitor and client.

(2) The costs in addition to actual and necessary disbursements which may be taxed to any claimant proving an uncontested claim shall not exceed \$5 if a solicitor is employed, and, where the amount claimed is within the jurisdiction of the Division Court, shall not exceed \$2 where a solicitor is employed.

(3) In case of a contest, where a solicitor is employed, the Judge may allow such costs not exceeding in any case \$10

when taxed on the District Court scale or \$5 when taxed on the Division Court scale in addition to actual and necessary disbursements, but where the claim does not exceed \$50 then such costs shall not exceed \$3.

(4) Subject to the provisions of this section, the costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the court in which proceedings under this Act have been taken. R.S.O. 1897, c. 154, s. 31.

30.—(1) Where money paid into court as the proceeds of the sale of logs or timber is more than sufficient to satisfy the claims which have been proved with interest and costs the Judge, upon the application of any creditor within thirty days from the day fixed by the order for payment, shall order that such remaining money be paid over to the sheriff, who shall hold and distribute the same as provided by *The Creditors' Relief Act* in the case of money levied under execution, and all parties having claims may take the like proceedings as those provided by *The Creditor's Relief Act* for proving claims and obtaining certificates or executions.

Disposition of balance after sale and satisfaction of liens.

9 Edw. VII, c. 48.

(2) If no such application is made to the Judge within such period of thirty days, the Judge may order payment out of court of any remaining money to the person entitled thereto. R.S.O. 1897, c. 154, s. 32.

31. Any person affected by proceedings taken under this Act may apply to the Judge to dismiss the same for want of prosecution, and the Judge may make such order upon the application as he may deem just. R.S.O. 1897, c. 154, s. 33.

Dismissal of proceedings for want of prosecution.

32.—(1) Nothing in this Act shall deprive any person of any other remedy to which he may be entitled for the recovery of any amount due in respect of labour performed upon or in connection with any logs or timber.

Other remedies not affected.

(2) Where an action is brought to enforce a lien, but no lien is found to exist in respect of the claim, judgment may be given for any amount found due as in an ordinary action. R.S.O. 1897, c. 154, s. 35.

33. Any number of lien holders may join in taking proceedings under this Act, or may assign their claims to any one or more persons, but the claim to be filed under section 8 shall include particular statements of the several claims joined which shall be verified by the affidavits of the persons so joining, or separate claims may be filed and one writ, summons or attachment issued on behalf of all the persons so joining. R.S.O. 1897, c. 154, s. 36.

Any number of lien holders may join in proceedings.

Transfer of
suit from
Division
Court in case
proceedings
taken in
District
Court.

34. Where proceedings have been commenced in the District Court, and proceedings are brought or are thereafter pending in respect of the same logs or timber, or any part of them, in a Division Court, the Judge may order the proceedings in the Division Court to be adjourned before him, and shall in his inquiry include the claims in respect of which proceedings are pending in the Division Court, and thereafter all persons who have filed claims in the Division Court shall be entitled to prove their claims and to share in the benefit of the proceedings in the District Court. R.S.O. 1897, c. 154, s. 37.

Where suits
in several
Courts.

35. Where suits are brought in several District Courts, or in several Division Courts, the procedure under sections 25 to 27 shall be had in the District or Division Court out of which an execution or attachment first issued, unless the Judge of such court shall otherwise order. R.S.O. 1897, c. 154, s. 38.

Practice.

36. The practice and procedure in actions brought in the District Courts or in Division Courts, shall, so far as they are not inconsistent with this Act, apply to proceedings taken under this Act. R.S.O. 1897, c. 154, s. 39.

Liability for
loss occa-
sioned by
improper
seizure.

37. Any person who unlawfully and maliciously, and without reasonable and probable cause, takes, or causes to be taken proceedings under this Act by which logs or timber are seized, detained or sold, shall be liable therefor in an action at the suit of any person aggrieved thereby, and shall also be liable for all loss and damage occasioned by such seizure, by reason of such logs or timber breaking away or being scattered or lost, or otherwise. R.S.O. 1897, c. 154, s. 40.

Illegal pay-
ments.

38.—(1) No payment of wages shall be made or offered to any person for any labour performed upon or in connection with any logs or timber by any cheque, order, I.O.U., bill of exchange, promissory note, or other undertaking (other than a bank note or bill), drawn upon or payable at or within any place out of Ontario. R.S.O. 1897, c. 154, s. 41.

Penalties.

(2) Any person violating, or who shall direct or knowingly suffer his agent or servant to violate the provisions of this section shall incur a penalty of not less than \$5 and not more than \$20, to be recovered under the provisions of *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 154, s. 42.

Rev. Stat.
c. 90.

Illegal pay-
ments not to
be allowed as
a defence in
any action.

39. No payment made or offered to be made in violation of section 38, shall be a defence to an action or proceeding for the recovery of wages, or be receivable in evidence therein, nor shall any such payment or offer of payment in any way affect any claim of lien for labour on logs or timber under this Act, but in case of the sale, or transfer of any instrument

mentioned in section 38, in whole or in part, by the payee, the consideration received by him shall be treated as payment on account. R.S.O. 1897, c. 154, s. 43.

40. The Judges of the District Courts, or a majority of them, may prepare and adopt forms of writs, summonses, attachments and other forms for the more convenient carrying out of the provisions of this Act, and thereafter the same shall be used instead of the forms prescribed by this Act. R.S.O. 1897, c. 154, s. 14 (*part.*) Forms of proceeding.

41. Chapter 154 of the Revised Statutes, 1897, and all amendments thereto are repealed. Repeal.

FORM 1.

CLAIM OF LIEN.

A. B., (name of claimant) of (state residence of claimant), (if claim made as assignee then say as assignee of giving name and address of assignor) under *The Woodman's Lien for Wages Act*, claims a lien upon certain logs or timber of (here state the name and residence of the owner of logs or timber upon which the lien is claimed if known) which logs and timber are composed of (state the kinds of logs and timber such as pine sawlogs, cedar or other posts or railway ties, shingle bolts or staves, etc., also where situate at time of filing of claim) in respect of the following work, that is to say, (here give a short description of the work done for which the lien is claimed) which work was done for (here state the name and residence of the person upon whose credit the work was done) between the day of and the day of at per (month or day as the case may be).

The amount claimed as due (or to become due) is the sum of (and when credit has been given, the said work was done on credit, and the period of credit will expire on the day of).

Dated at this day of , 19 .

(Signature of Claimant).

AFFIDAVIT TO BE ATTACHED TO CLAIM.

I make oath and say that I have read (or have heard read) the foregoing claim, and that the facts therein set forth are, to the best of my knowledge and belief, true, and that the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which the said (naming the debtor) is entitled to credit.

Sworn before me at in the district }
of this day of , 19 . }

A Commissioner.

R.S.O. 1897, c. 154, Sched.

No. 150.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

The Woodman's Lien for Wages Act.

First Reading 7th day of February, 1910
Second Reading 9th day of February, 1910

*(Reprinted as amended in Committee of
the Whole House.)*

Mr. COCHRANE

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act to establish The Algonquin National Park of Ontario.

SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 LIMITS AND PURPOSES OF PARK,
 ss. 3-6.
 MANAGEMENT, s. 7.
 REGULATIONS TO BE PUBLISHED,
 s. 8.
 HUNTING, FISHING, ETC., PROHI-
 BITED, ss. 9-12.
 CONFISCATION OF NETS, WEAPONS,
 ETC., ss. 13, 14.
 CUTTING TIMBER PROHIBITED, s.
 15.
 EXPLORING FOR MINERALS, s. 16.
 INTOXICATING LIQUORS, s. 17.

GENERAL PENALTIES, ss. 18, 19.
 POWERS OF PARK RANGER, s. 20.
 SUPERINTENDENT'S AUTHORITY, ss.
 21, 22.
 ACTS FOR PROTECTION OF FISH
 AND GAME TO APPLY, s. 23.
 LICENSED GUIDES, s. 24.
 PUNISHMENT OF OFFENDERS, ss.
 25, 26.
 WHO MAY TRY, s. 27.
 APPLICATION OF FINES, s. 28.
 PROCEDURE ON PROSECUTIONS, s.
 29.
 REPEAL, s. 30.

HIS MAJESTY, by and with the advice and consent
 of the Legislative Assembly of the Province of On-
 tario, enacts as follows:—

1. This Act may be cited as "*The Algonquin National*" ^{Short title.}
Park Act." R.S.O. 1897. c. 46, s. 1.

2. In this Act "Minister" shall mean the Minister of Lands, ^{Interpreta-}
 Forests and Mines. ^{tion.}

3. The tract of land comprising the following townships ^{Boundaries of}
 being the lands of the Crown, and lying within the Terri- ^{park.}
 torial District of Nipissing, that is to say, the Townships of
 Peck, Hunter, Devine, Biggar, Wilkes, Canisbay, McLaugh-
 lin, Bishop, Osler, Pentland, Sproule, Bower, Freswick, Lis-
 ter, Preston, Dickson, Anglin, Deacon, all that portion of
 the Township of Finlayson east of the side road between lots
 20 and 21 in the several concessions thereof; all that portion
 of the Township of McCrancy, east of the side road between
 lots 15 and 16 in the several concessions thereof; all that
 portion of the Township of Butt, east of the side road be-
 tween lots 15 and 16 in the several concessions thereof; all
 that portion of the Township of Paxton, east of the side road
 between lots 15 and 16 in the several concessions thereof; all

that portion of the Township of Ballantyne, east of the side road between lots 20 and 21 in the several concessions thereof, except lot 21 in the 5th concession; all that portion of the Township of Boyd, south of the line between concessions 10 and 11, the west half of the Township of Fitzgerald comprising lots 1 to 20 in concessions 1 to 14 inclusive; lots 1 to 20 in concessions 1 to 14 inclusive in the Township of White; lots 16 to 38 in concessions 1 to 14 inclusive in the Township of Niven, and lots 16 to 37 in concessions 4 to 15 inclusive, the north 80 acres of lot 36 and the north 72 acres of lot 37 in the 2nd concessions, and lots 35, 36 and 37 in the 3rd concession in the Township of Clancy, is hereby withdrawn from sale, settlement and occupancy under the provisions of *The Public Lands Act, The Free Grants and Homesteads Act, and The Mining Act of Ontario.*

Rev. Stats.
cc. 28, 29, 36.

Dedication of
park.

4. The said tract of land is hereby reserved and set apart as a public park and forest reservation, fish and game preserve, health resort and pleasure ground for the benefit, advantage and enjoyment of the people of Ontario, subject to the provisions of this Act and of the regulations hereinafter mentioned, and shall be known as "The Algonquin National Park of Ontario." R.S.O. 1897, c. 46, s. 3.

Lieutenant-
Governor may
add other
townships to
park.

5.—(1) The Lieutenant-Governor in Council may add to the Park any adjacent townships or parts of townships, and in case of any such addition this Act shall be read with respect to such townships or parts of townships as if the same were mentioned in section 3.

May impose
terms and
conditions.

(2) Where lands have been granted in any such township or part of township the Lieutenant-Governor in Council may impose such terms and conditions in adding the same or any part thereof to the Park as shall to him seem fit and proper. R.S.O. 1897, c. 46, s. 4.

Lands not to
be located or
settled upon.

6. Except as hereinafter provided, no person shall locate, settle upon, use or occupy any portion of the Park. R.S.O. 1897, c. 46, s. 5.

Control of
park.

7. The Park shall be under the control and management of the Department of Lands, Forests and Mines, and the Lieutenant-Governor in Council may make regulations for the following purposes:—

Regulations.

Care and pre-
servation.

(a) The care, preservation, management and improvement of the Park, and of the watercourses, lakes, trees, shrubbery, minerals, natural curiosities and other matters therein contained;

- (b) The controlling and regulating the level of the water in the rivers, streams and lakes of the Park, with the view of preventing damage to the trees and vegetation on the shores thereof; *New*
- (c) The lease for any term of years of such parcels of land in the Park as he deems advisable, for the construction of buildings for ordinary habitation, and such other buildings as may be necessary for the accommodation of visitors or persons resorting to the Park as a sanitarium or health or summer resort; Leaving lots for erection of buildings.
- (d) The issuing of licenses to cut timber within the limits of the Park in respect of timber berths heretofore sold, and for the improvement of the Park, and for firewood for the use of persons engaged in and about the Park; Issuing timber licenses.
- (e) The working of mines and the developing of mining interests within the limits of the Park, and the issuing of licenses or permits of occupation for the said purposes; but no lease, license or permit shall be made, granted or issued under this or the next two preceding clauses of this section which will in any way impair the usefulness of the Park for the purposes for which it is designed; Mining.
- (f) The issuing of licenses for shops, and for houses for the accommodation of visitors and places where trade and industries necessary for the accommodation of persons resorting to the Park may be carried on; Licensing shops and inns.
- (g) The prevention and extinguishment of fires; Fires.
- (h) The preservation and protection of game, fish, wild birds, and animals in the Park, and for the destruction of wolves, bears and other noxious or injurious or destructive animals; Preservation of game and fish.
- (i) The removal and exclusion of pedlars, travelling salesmen, and trespassers, and the confiscation or destruction of guns or other firearms or explosives, traps, nets, spears or other weapons or implements for hunting or fishing found within the limits of the Park without proper authority; Trespassers.

Appointment
of superin-
tendent,
wardens, etc.

- (j) The appointment of a Superintendent and Wardens, Rangers, or other officers to see to the carrying out of the provisions of this Act and the regulations made thereunder, and the prescribing of their powers and duties, and providing for their salaries or other remuneration, out of any moneys which may be appropriated for that purpose by the Legislature;

Penalties.

- (k) The imposition of penalties for any violation of the provisions of this Act or of the regulations made thereunder not exceeding in each case \$50 and costs, and in default of payment imprisonment for not more than three months;

General pur-
poses.

- (l) And generally for all purposes which he may deem necessary to carry this Act into effect. R.S.O. 1897, c. 46, s. 6.

Publication of
regulations.

8. Every such regulation after its publication for four consecutive weeks in the *Ontario Gazette* and in any other manner prescribed by the Lieutenant-Governor in Council shall have the like force and effect as if herein enacted, and shall be laid before the Assembly within fifteen days after its first meeting subsequent to the making thereof. R.S.O. 1897, c. 46, s. 7.

Penalty for
unauthorized
use of fire-
arms, hunting,
etc.

9. Carrying or using firearms or explosives within the Park, except as provided by the regulations, hunting with or without firearms or explosives, and trapping or spearing within the limits of the Park, except under special license for the killing of wolves, bears, wolverines, wild cats, foxes or hawks to be issued by the Minister upon the recommendation of the Superintendent, are hereby prohibited under a penalty not exceeding \$100 for each offence. R.S.O. 1897, c. 46, s. 8.

Killing of
beaver, etc.,
on recommen-
dation of
Minister.

- 10.—(1) Upon report by the Minister that beaver or other fur-bearing animals have increased to such an extent that they may be lessened in number without detriment to the Park or the purposes for which it was established, the Lieutenant-Governor in Council may authorize the taking of such animals, not exceeding the number specified in the Order, under the direction and supervision of the Superintendent of the Park.

Marking of
skins.

- (2) The skins or furs of animals so taken shall be marked or stamped by the Superintendent with the words "Algonquin Park," and may be sold by the Minister, and the proceeds of the sale shall be applied towards defraying the expenses of

the Park, and the possession or sale of skins or furs so taken and marked shall be lawful, notwithstanding anything contained in any other Act or Regulation.

(3) Every person who without lawful authority marks or stamps the words "Algonquin Park" upon the skin or fur of any such animal, or who has in his possession, or sells any such skin or fur knowing that the same has been so marked without lawful authority, in addition to any other penalty to which he may be liable, shall incur a penalty of \$200.

Penalty for unlawfully marking skin or fur.

(4) Every person who without lawful authority has in his possession any stamp, brand or other instrument by means of which the words "Algonquin Park" may be marked or stamped on any such skin or fur, in addition to any other penalty to which he may be liable, shall incur a penalty of \$200. (*New*).

Penalty for unlawfully having possession of stamp or brand.

11.—(1) Fishing with net, trap, spear or night line in the waters within the Park is prohibited under a penalty not exceeding \$100 for each offence.

Penalty for unauthorized fishing.

(2) No person shall fish within such waters with hook and line without a license therefor, and then only for the purpose of supplying food for visitors or officers of the Park or rangers or labourers therein employed by or under the control of the Superintendent, and no fish caught within the waters of the Park shall be sold, bartered or trafficked in, either within or outside its boundaries, under a penalty in either case not exceeding \$50 for each offence.

License to fish.

(3) Such licenses may be issued by the Minister, or by such other person as shall be authorized by the Lieutenant-Governor. R.S.O. 1897, c. 46, s. 9.

12. The Superintendent or any Park Ranger or member of the Ontario Police Force, or other person appointed by the Lieutenant-Governor for the purpose, may, on view, without warrant or legal process, arrest and bring before a Justice of the Peace or before the Superintendent to be dealt with according to law, or he or they or the Superintendent may, on view, arrest and remove from the limits of the Park any person found violating the provisions of this Act or carrying or having in his possession a fishing net, trap, spear or night line, or firearm or other explosive, or other weapon or instrument for catching or killing fish, other than hook or line, or for the destruction of game or animals: R.S.O. 1897, c. 46, s. 10.

Power to arrest on view of offence.

13.—(1) In any of the cases mentioned in the next four preceding sections any of such officers may seize, take pos-

Seizure, confiscation and sale of weapons or instruments.

session of and retain or confiscate any such net, trap, spear, firearm, explosive, weapon or instrument, or any Justice of the Peace or Police Magistrate having jurisdiction in the district may direct or order the seizure, confiscation or sale thereof.

(2) The articles shall be sold in such manner as shall be provided by the regulations and the proceeds, after deducting the necessary expenses, shall be applied towards the expenses of maintaining the Park.

(3) An arrest, removal, seizure, confiscation or sale shall not relieve the offender from any other penalty to which he is liable under this Act or otherwise. R.S.O. 1897, c. 46, s. 11.

Confiscating
weapons
unlawfully
used, etc.

14.—(1) The Superintendent or any Park Ranger or any member of the Ontario Police Force may seize, take possession of, and confiscate or destroy any such net, trap, spear, explosive, weapon or instrument which he may find within the Park, whether the same is held or set out with intent to take or kill any animals or fish the taking or killing of which is forbidden by this Act, or otherwise, and may also seize and take possession of all firearms, furs, skins or peltries found within the Park, and the burden of proving that such furs, skins or peltries have not been taken or obtained contrary to law shall rest upon the person claiming the same or in whose possession they may be found.

(2) The Superintendent shall at once report any such seizure to the Minister, who may direct the confiscation of the articles seized or any of them and may direct that they be sold and the proceeds applied as is provided in section 13.

(3) For the purpose of searching for nets, traps, spears, firearms, explosives, weapons, instruments, furs, skins or peltries, the Superintendent, any Ranger, or any such Police Officer, may enter into any house, dwelling, structure or camp within the Park and may there search for the same without a search warrant, and shall have the same powers of seizure and confiscation as elsewhere within the Park. R.S.O. 1897, c. 46, s. 12.

Cutting
timber.

15.—(1) No timber or wood shall be cut within the limits of the Park, except pine, spruce, hemlock, black and yellow birch, cedar, black ash and tamarack cut under the authority of a timber license issued under the provisions of *The Crown Timber Act*, or the regulations made thereunder, or by the authority of the Minister, or under the regulations made by the Lieutenant-Governor in Council for the govern-

ment and maintenance of the Park, provided nevertheless that nothing herein shall have the effect of withdrawing the timber or wood, of the classes above specified, from any timber license nor shall anything herein prevent the operation of any Act or regulation made in respect of any timber license affecting the Park or the timber therein. Proviso.

(2) All interest or claim of the holder or owner of a timber license heretofore or hereafter issued or renewed in or to any kind of timber in the Park except pine timber shall on and after the expiry of thirty years from the 30th day of April, 1900, forever cease and determine, and all the timber except pine shall become the property of His Majesty freed and discharged of and from any interest, charge or claim of the holder or owner of such timber license or any person claiming through or under him or any other person. Interests under licenses for timber other than pine and renewals to cease after 30th April, 1930.

(3) Nothing in this section shall authorize the cutting of any timber except pine by the holder or owner of a timber license in the Park issued for a timber berth at the sale of which by the Crown the right to cut pine timber only was sold. R.S.O. 1897, c. 46, s. 13 (1); 63 V. c. 16, s. 1.

(4) A timber license over or in respect of any land within the Park shall not entitle the holder thereof to exclusive possession of such land as against the Crown or its agents or servants, nor shall any such license exempt the holder thereof, his agents or employees, from the prohibitions relating to fishing or hunting or the carrying or using of firearms within the limits of the Park. R.S.O. 1897, c. 46, s. 13 (2). Rights of timber licensees.

16. Mining exploration or prospecting for minerals within the Park is prohibited, except under and in accordance with the provisions of the regulations. R.S.O. 1897, c. 46, s. 14. Mining exploration.

17. No license shall be issued for the sale of intoxicating liquors within the Park, and any intoxicating liquor found within the limits of the Park and held for the purpose of sale may be seized and destroyed by any Park Ranger or by any Constable or License Inspector having authority within the District of Nipissing, and every Ranger shall have all the powers and authority of a License Inspector for the purpose of enforcing therein the provisions of *The Liquor License Act* and of this Act. R.S.O. 1897, c. 46, s. 15. Sale of intoxicating liquors within the park. Rev. Stat. c. 245.

18. Where no penalty is herein or otherwise provided, any person violating any provision of this Act shall incur a penalty not exceeding \$50, and in default of payment thereof shall be liable to imprisonment for a period not exceeding three months. R.S.O. 1897, c. 46, s. 16. Offences to which no special penalty attached.

Offender's
liability for
damages.

19. In addition to any penalty provided by this Act for the violation of any of its provisions, the offender shall be liable for all damages caused by him, and the same may be recovered in any court of competent jurisdiction. R.S.O. 1897, c. 46, s. 17.

Powers of
Park Ranger.

20. A Park Ranger shall have all the power and authority of a member of the Ontario Police Force. R.S.O. 1897, c. 46, s. 10.

Superinten-
dent to have
authority
of police
magistrate.

21. The Superintendent shall, within the limits of the Park and for one mile from any part thereof, for the purposes of enforcing law and order and the provisions of this Act and the regulations, have all the powers, rights and privileges of a Police Magistrate, and shall have jurisdiction over and within the Park and the territory surrounding the same for the distance of one mile from any part thereof, unless and until otherwise provided by the Lieutenant-Governor in Council, or the Lieutenant-Governor in Council may appoint another person as Police Magistrate with such jurisdiction; but nothing in this section shall interfere with the jurisdiction of other Magistrates. R.S.O. 1897, c. 46, s. 18.

Superinten-
dent to be
ex-officio a
health officer.

Rev. Stat.
c. 248.

22. The Superintendent shall be *ex officio* a health officer for the Park and for the territory surrounding the same for the distance of one mile from any part thereof, and shall have all the powers and perform all the duties by *The Public Health Act*, or any other Act, conferred or imposed upon medical health officers or local boards of health; and all Park Rangers whether employed temporarily or otherwise, shall be *ex officio* sanitary inspectors under *The Public Health Act*, and shall have all the powers and perform all the duties conferred or imposed upon sanitary inspectors thereunder. R.S.O. 1897, c. 46, s. 19.

Territory not
withdrawn
from opera-
tion of
7 Edw. VII.
c. 49.

23. Nothing herein shall withdraw the territory comprising the Park or that within a mile from any part thereof from the operation of *The Ontario Game and Fisheries Act*, except as therein or herein otherwise provided. R.S.O. 1897, c. 46, s. 20.

Licenses to
guides.

24.—(1) The Superintendent may issue licenses to fit and proper persons to act as guides in conducting tourists and visitors into and through the Park, and any unlicensed person who acts as guide to any tourist or visitor shall incur a penalty not exceeding \$20 for each offence, and in default of payment shall be liable to imprisonment for a period not exceeding thirty days.

(2) The annual fee to be paid for a license shall not exceed one dollar.

(3) The Superintendent may cancel any such license upon proof of violation by the holder thereof of this Act or of the regulations. R.S.O. 1897, c. 46, s. 21.

25. Any person arrested for violation of any of the provisions of this Act or of the regulations who is punishable upon summary conviction by a Justice of the Peace or Police Magistrate may be committed to the common gaol or to any lock-up within the Districts of Nipissing, Sudbury, Parry Sound or Muskoka, or the County of Renfrew, whichever may to the committing Justice or Magistrate appear to be the most convenient. R.S.O. 1897, c. 46, s. 22. Committal of offenders.

26. In default of the payment of any penalty or costs by any person convicted of any offence under this Act, the offender may be committed to a common gaol or to a lock-up in the Districts of Nipissing, Sudbury, Parry Sound, or Muskoka, or in the County of Renfrew. R.S.O. 1897, c. 46, s. 23. Imprisonment in default of payment of fine and costs.

27. All prosecutions for any offence under this Act, not specifically otherwise provided for, may take place before any Police Magistrate or Justice of the Peace having jurisdiction in the District of Nipissing, or before the Superintendent, or other person appointed under the authority of this Act. R.S.O. 1897, c. 46, s. 24. Who may try offences.

28.—(1) One-half of every penalty imposed by or under the authority of this Act shall belong to His Majesty, and the other half when collected shall be paid over to the prosecutor or informant, together with any costs which he may have incurred and which may be collected. Application of fines.

(2) The Superintendent or Rangers or other of the Park employees shall not be entitled to a share of, or to participate in any penalty. R.S.O. 1897, c. 46, s. 25.

29. Save where otherwise provided by this Act, the provisions of *The Ontario Summary Convictions Act* shall apply to prosecutions and proceedings under this Act. R.S.O. 1897, c. 46, s. 26. Application of Rev. Stat. c. 90.

30. Chapter 46 of the Revised Statutes of Ontario, 1897, and all amendments thereto are repealed. Repeal.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to establish the Algonquin
National Park of Ontario.

First Reading	day of	1910
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Mr. COCHRANE

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting The Queen Victoria Niagara Falls Park.

SHORT TITLE, s. 1.

COMMISSIONERS, s. 2

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HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Queen Victoria Niagara Falls Park Act.*" R.S.O. 1897, c. 45, s. 1. Short title.

2.—(1) The Lieutenant-Governor in Council may ap- Board of
Commission-
ers.
point a Board of Commissioners composed of not less than
five persons, which board shall be a corporation by the name
of "The Commissioners for the Queen Victoria Niagara Falls
Park."

(2) The members of the board shall hold office during
pleasure.

(3) The Commissioners shall receive their actual disbursements, but no compensation. R.S.O., c. 45, s. 2.

PART I.

QUEEN VICTORIA NIAGARA FALLS PARK.

Boundaries of
park.

3.—(1) The lands in the vicinity of Niagara Falls selected by the Commissioners and approved by the Lieutenant-Governor in Council, whereof the boundaries as surveyed upon the ground are shown by a red verge line marked upon a map, whereof copies duly certified and authenticated are filed and deposited in the office of the Registrar of the County of Welland and in the Department of Lands, Forests and Mines, excepting thereout the strip of land, lying between Range No. 6, as laid down in the plan of the City of the Falls, in the Township of Stamford, on the north, and by Street's Mill Road and the lands held by the Carmelite Monastery on the south, the easterly boundary whereof is at a distance of 130 feet east of the centre line of the Canada Southern Railway, and the westerly boundary whereof is the westerly line of the Park as marked upon the said map, shall constitute "The Queen Victoria Niagara Falls Park" and shall be vested in the said Corporation as trustees for the Province.

3 Edw. VII.
c. 19.

(2) Until the municipal corporation otherwise enacts by by-law, passed in compliance with section 632 of *The Consolidated Municipal Act, 1903*, Robinson and Murray streets shall be public entrances to the Park for visitors in carriages, or on horses, or on foot. R.S.O. 1897, c. 45, s. 3.

Lands along
river bank.

4. The lands lying along the bank of the Niagara river, and not included in the original survey of lots laid out in the Townships of Stamford and Niagara, which have by order of the Lieutenant-Governor in Council been vested in the Commissioners to be held for the purposes of the Park, and commonly known as "The Chain Reservation," shall form part of the Park and be subject to the control of the Commissioners as other lands within the boundaries of the Park. R.S.O. 1897, c. 45, s. 4.

Foreshores
and part of
bed of Niagara
River may be
vested in
Commission-
ers.

5. The Lieutenant-Governor in Council may also vest in the Commissioners, to be held for the purposes of the Park and subject to any conditions which may be imposed by Order in Council, any portions of the foreshores or bed of the River Niagara or lands covered with water in the River Niagara, which lie in front of the lands vested in the Commissioners by section 3, and which at the time of the Order in Council are the property of Ontario, and the foreshores, bed of the

river and lands so vested shall thenceforth form part of the Park and be subject to the control of the Commissioners as other Park lands. R.S.O. 1897, c. 45, s. 5.

6.—(1) The rights, title, possession and franchises which were held and exercised by the St. Catharines, Thorold, and Niagara Falls Road Company, or by the persons having the title, interest and possessory rights thereof in respect of that portion of the St. Catharines, Thorold, and Niagara Falls Road, between the Table Rock and Niagara Falls Suspension Bridge on lot 92 of Stamford are also vested in the Commissioners. Rights of proprietors of road vested in Commissioners.

(2) All rights to take and collect tolls, as well as the public rights in the portion of the St. Catharines, Thorold, and Niagara Falls Road, within the limits of the Park, as shown upon the said plan, are extinguished. R.S.O. 1897, c. 45, s. 6.

7. The Commissioners shall have power to construct and operate a street railway over the said road and may build the same to any points or lands vested in the Commissioners and tolls on any such railway may be charged as provided by sections 13 and 15. R.S.O. 1897, c. 45, s. 7. Commissioners may construct street railway.

8. The Commissioners shall have power to expropriate, in accordance with section 10 the interest of any person in any land lying between the river and the road built on the Chain Reservation, and vested in the Commissioners under the authority of this or any other Act. R.S.O. 1897, c. 45, s. 8. Powers of expropriation.

9.—(1) The Commissioners with the consent of the Lieutenant-Governor in Council may enter upon, take, use or acquire such lands, tenements and rights as they think expedient to be acquired for the purpose of making, forming and completing any new roads, avenues or approaches to the Park, but, except where the lands, tenements, or rights to be acquired are for the purpose of opening or widening a highway, the Commissioners shall not take any land for the purposes aforesaid without the consent of the parties interested therein. R.S.O. 1897, c. 45, s. 9 (1); 4 Edw. VII. c. 10, s. 9 (1). Power to acquire lands for approaches, roads, etc.

(2) A highway so opened or widened shall not be used or occupied as a stand by vehicles kept for hire, or by booths or stands for the sale of newspapers or photographs, or for the carrying on of a refreshment business or the like. 4 Edw. VII. c. 10, s. 9 (2).

(The following section is substituted for s. 10 of the Revised Statute. It is taken from The Hydro-Electric Power Act of 1907.)

Procedure to
acquire land,
etc.

10.—(1) Whenever the Commissioners are authorized by the Lieutenant-Governor in Council to enter upon, take, use or acquire any lands, tenements or rights under the provisions of sections 8, 9 or 12, the Commissioners, in respect thereof shall have the powers and shall proceed in the manner provided by *The Public Works Act* where the Minister of Public Works takes land or property for the use of the Province, and the provisions of that Act shall *mutatis mutandis* apply. See 7 Edw. VII. c. 19, s. 9.

(2) The compulsory powers conferred by this Act shall extend to lands, works, rights, powers, privileges and property notwithstanding that the same are or may be deemed to be devoted to the public use or that the owner thereof possesses the power to take lands compulsorily. See 7 Edw. VII. c. 19, s. 10.

Issues of de-
bentures
authorized.
50 V. c. 13.

11.—(1) The debentures, amounting to \$525,000, issued by the Commissioners under the authority of *The Queen Victoria Niagara Falls Park Act*, 1887, and countersigned by the Treasurer of the Province and guaranteed by Order in Council, shall, equally and without preference of one over another, be a charge on all the revenues of the Corporation, and subject thereto the further issue amounting to \$75,000, subsequently issued by the Commissioners under the authority of *The Act respecting the Queen Victoria Niagara Falls Park*, passed in the fifty-seventh year of the reign of Her late Majesty Queen Victoria, countersigned and guaranteed as aforesaid, shall also equally and without preference of one over another, be a charge on the said revenues.

57 V. c. 13.

(2) The debentures being so issued and countersigned shall be conclusive of the same having been issued in pursuance of the said Acts, and of the same being guaranteed by the Province of Ontario.

(3) The debentures and the coupons for interest annexed thereto shall be transferable by delivery. R.S.O. 1897, c. 45, s. 11.

Further issue
of debentures
for \$300,000.

12.—(1) Subject to the debentures issued and secured under section 11 in the order of charge thereby enacted the Commissioners may, with the approval of the Lieutenant-Governor in Council, issue further debentures to an amount not exceeding in all \$300,000 for improvements and the appropriation and application of the proceeds, the form

and effect of the debentures, their payment with interest, as also the security guarantee and negotiability thereof shall be as provided by section 11 with respect to the debentures therein mentioned. 8 Edw. VII. c. 29, s. 1; 9 Edw. VII. c. 24, s. 2.

(2) The proceeds of the further debentures mentioned in subsection 1 shall be applied by the Commissioners primarily towards the preservation of the bank of the Niagara River, between Fort Erie and the southerly boundary of the Park proper against erosion, wash or other action by nature affecting or which may affect the same, and the construction of an esplanade on and along the said bank for public purposes and of such width as may be determined and for the purchase of such land as may be necessary or the acquisition thereof by expropriation in accordance with the powers exercisable by the Commissioners under this Act. The holders of the debentures shall not be required to see to the application of the said proceeds. 8 Edw. VII. c. 29, s. 2 (1). Applications of proceeds of further issue.

(3) A plan and survey shall be made of the lands which the Commissioners propose to purchase, take or acquire under the powers conferred by subsection 2.

(4) The plan shall be approved and certified by the Commissioners who shall keep one copy thereof on file in their office and a duplicate shall be deposited in the office of the Minister of Public Works.

(5) If any alterations in the plan or survey of the land proposed to be taken are deemed advisable to be made, the Commissioners may make the same and a plan in duplicate showing such alterations on the same scale and containing the same particulars as the original plan and survey shall be deposited and kept in the same manner as the original plan and survey.

(6) A copy of any such plan or survey, certified by the Chairman, under the corporate seal of the Commissioners, shall be evidence that the original thereof was deposited at the time certified thereon and shall be prima facie proof of the original so deposited and that the same was signed, certified or otherwise approved of by the Commissioners in the manner in which the same purports to be signed and certified and that the same was prepared and approved by the Commissioners. See 6 Edw. VII. c. 30, s. 59, ss. (2), (3), (8), (12), (*The Ontario Railway Act*, 1906).

13.—(1) Subject to any direction of the Lieutenant-Governor in Council, the Commissioners may Powers of Commissioners.

- (a) Construct and operate inclined planes and hydraulic or other lifts, to be worked by any power; and may build and operate boats or vessels to be used in connection with the Park;
- (b) Pull down all houses and other erections and buildings on lands acquired and purchased by the authority of this Act, or such of them or such part thereof as they shall think proper to be pulled down, and may level and clear the ground whereon the same stand, in such manner as they think proper, and sell the materials of the houses and other buildings to be taken down and removed; and the moneys to be produced by the sale thereof, after deducting expenses, and also the rents and profits to which they may be entitled meantime, shall be applied in carrying out the purposes of this Act;
- (c) Lay out, plant and enclose the Park in such manner as they think fit, and improve and develop the same in accordance with the objects of this Act;
- (d) Take and collect tolls for the use of constructions, appliances, vessels or works required to afford facilities to visitors to reach and view the points of interest within the Park, and involving the expenditure of money in construction and maintenance, as well as for services to be rendered for the convenience or accommodation of visitors;
- (e) Make orders and regulations for opening and closing the gates and entrances of the Park, at such hours as they think fit, but so as not to interfere with, or affect, an agreement heretofore entered into between the Commissioners and the Canada Southern Railway Company. R.S.O. 1897, c. 45, s. 12.

Park to be a
Public Work.

14. All works or lands whereon any expenditure is authorized in pursuance of this Act shall be deemed and are declared to be Public Works of Ontario notwithstanding that they are in the care or charge of the Commissioners. 9 Edw. VII. c. 24, s. 3, *part*.

15. No by-law, plan of works proposed, tariff of toll or payment for the use of works, vessels or services, shall be acted upon until approved by the Lieutenant-Governor in Council. R.S.O. 1897 c. 45, s. 13.

Plans, tolls and by-laws subject to approval of Lieutenant-Governor.

16. The Park Grounds shall be open to the public, subject to any rules and regulations as to management approved by the Lieutenant-Governor in Council. R.S.O. 1897, c. 45, s. 14.

Grounds open to public.

17.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commissioners may make by-laws for the use, government, control and management of the Park, and for the protection and preservation of all works of the same from injury, and of the trees, shrubs, walks, seats, gates, fences and palings and all other parts thereof, and for the exclusion of improper persons from the same, and may by any such by-law impose a penalty, not exceeding \$20, for any breach thereof. R.S.O. 1897, c. 45, s. 15, *part*.

Powers of commissioners as to by-laws.

(2) Any offence against any such by-law shall be punishable upon summary conviction under *The Ontario Summary Convictions Act*. 8 Edw. VII., c. 29, s. 4.

Offences against by-laws.

18.—(1) The Commissioners may appoint such officers as may be required for the superintendence and management of the Park, and may also appoint Park keepers and other officers to preserve order in the Park, and may dismiss any persons so appointed.

Park officers.

(2) Such appointments or dismissals shall be subject to the approval of the Lieutenant-Governor in Council.

(3) The salaries of such officers shall be payable out of any funds in the hands of the Commissioners.

(4) The Commissioners may employ gardeners and workmen, as they may deem necessary, and may dismiss or dispense with the services of such persons, subject to any directions of the Lieutenant-Governor in Council. R.S.O. 1897, c. 45, s. 15, *part*.

Gardeners and workmen.

19. The Commissioners shall cause books to be provided and true and regular accounts to be entered therein of all moneys received and paid, and of the several purposes for which the same were received and paid; and such books shall at all times be open to the inspection of any of the Commissioners, and of the Treasurer of Ontario and of any person appointed by the Commissioners or Treasurer for that purpose, and of any other person appointed by the Lieu-

Books of account to be kept.

tenant-Governor; and any Commissioner and any such person may take copies of or extracts from such books. R.S.O. 1897, c. 45, s. 15.

Securities for
moneys.

9 Edw. VII.
c. 5.

20. Any person entrusted by the Commissioners with the custody or control of money by virtue of his employment shall give security in the manner and form provided by *The Public Officers Act*. R.S.O. 1897, c. 45, s. 15, *part*.

Revenue and
rental payable
by certain
Power Com-
panies.

21. (1) The revenues and rentals payable or collectable under the several agreements made by and between the Commissioners acting on their own behalf and with the approval of the Government of the Province of Ontario and the Canadian Niagara Power Company, the Ontario Power Company of Niagara Falls and the Electrical Development Company of Ontario, Limited, shall be applied:—

(a) To the payment half-yearly of the interest payable on the debentures issued by the Commissioners, namely, such as are described in section 11, and such as have been issued or are issuable under section 12, in all \$900,000;

(b) To provide a sinking fund at the rate of one per cent. per annum on the entire amount of the debentures.

(2) The application of the sinking fund in respect of such debentures shall be as provided by section 23. 9 Edw. VII. c. 24, s. 5.

Collection and
application
thereof.

22. Subject to any direction or order of the Lieutenant-Governor in Council, and to the provisions of this Act, the Commissioners may continue to collect the revenues and rentals in the next preceding section mentioned, and for the years, 1910, 1911 and 1912 and shall apply the same in accordance with the provisions of that section. 9. Edw. VII. c. 24, s. 6.

Application of
revenue.

23. The revenue received from the sources authorized by this Act and any excess of revenue received under the next two preceding sections shall be applied as follows:—

1st. To the necessary outgoing expenses of all works necessary to the preservation, improvement, and maintenance of the Park, and to the payment of the salaries of the officers and others employed by the Commissioners, and other incidental expenses.

2nd. To the payment half-yearly of the interest payable on the debentures issued by the Commissioners.

3rd. To provide a sinking fund at the rate of one per cent. per annum on the entire amount of the debentures issued as aforesaid. R.S.O. 1897, c. 45, s. 16.

24. The annual sums for the sinking fund shall be remitted by the Commissioners to the Treasurer of Ontario by half-yearly payments in such manner as the Lieutenant-Governor in Council may direct. R.S.O. 1897, c. 45, s. 17.

Application of sinking fund.

25.—(1) The Commissioners shall make an annual report for the information of the Legislature, setting forth the receipts and expenditure of the year and such other matters as may appear to them to be of public interest in relation to the Park, or as the Lieutenant-Governor in Council may direct.

Annual report and accounts.

(2) Sections 11 and 29 to 31 of *The Audit Act* shall apply to the accounts of the Commissioners in respect of receipts and expenditures. R.S.O. 1897, c. 45, s. 18.

8 Edw. VII. c. 9, ss. 11, 29-31 to apply.

26.—(1) The Commissioners may empower the Clifton Suspension Bridge Company to operate their cars by any power, except steam, to and from their bridge across the Chain Reservation, subject to any order of the Board of Railway Commissioners of Canada in that behalf and subject to the rights if any of the Niagara Falls Park and River Railway Company, and to the terms of any agreement made with such company.

Operating cars across the Clifton Suspension Bridge.

(2) Any agreement between the Commissioners and the Clifton Suspension Bridge Company heretofore made which, if made hereafter, would be authorized by this section, is confirmed as if made after the passing of this Act. R.S.O. 1897, c. 45, s. 22.

27. Subject to the approval of the Lieutenant-Governor in Council, the Commissioners may, upon terms to be agreed on, grant to the Clifton Suspension Bridge Company, or any other duly incorporated bridge company, any rights over or in respect of lands held by the Commissioners which may be required for the purposes of building any new bridge over the Niagara river, or of confirming the present occupation of land by any bridge company now existing, but this shall not authorize the granting of any rights for the purpose in this section mentioned, through the lands vested in the Commissioners by section 3. R.S.O. 1897, c. 45, s. 23.

Granting rights over lands to bridge companies.

Rights not to be granted in Park proper.

Commissioners empowered to grant strip to Clifton Suspension Bridge Company.

28. Subject to the approval of the Lieutenant-Governor in Council, the Commissioners may grant to the Clifton Suspension Bridge Company a strip of Land from the Chain Reservation along the Niagara River and abutting the lands in occupation of the Company. R.S.O. 1897, c. 45, s. 24.

Agreement for surrender of powers of Canadian Niagara Power Co.

29. The Commissioners with the approval of the Lieutenant-Governor in Council and the Canadian Niagara Power Company may enter into an agreement for the surrender and abandonment of the sole or exclusive right to use the waters of the Niagara River within the limits of the Park granted by the agreement bearing date the seventh day of April, 1892, and set out in Chapter 8 of the Statutes of Ontario, 1892, upon such terms and conditions as to abatement of rent, the extension of time for the completion of the contract under the agreement or any variation of such contract and for other purposes in connection therewith as may to the Commissioners and the Lieutenant-Governor in Council appear to be necessary or in the public interest, and any such agreement so entered into shall be binding and effectual according to its terms. 62.V. (2), c. 11, s. 35.

Agreements with other companies.

30. The Commissioners with the approval of the Lieutenant-Governor in Council may enter into an agreement or agreements with any person or corporation to take water from the Niagara River or from the Niagara and Welland Rivers at certain points within or without the Park for the purpose of enabling such person or corporation to generate within or without the Park electricity, pneumatic, hydraulic or other power, conducting and discharging such water through and across the Park or otherwise, in such manner, for such rental and upon such terms and conditions as may be embodied in the agreement, and as may appear to the Lieutenant-Governor in Council to be in the public interest; but no such agreement shall be operative unless and until ratified and confirmed by resolution of the Assembly. 62 V. (2), c. 11, s. 36; 3 Edw. VII. c. 7, s. 52.

Expenditure made under 3 Edw. VII. c. 6, may be met out of debentures issued under this Act.

31. Any expenditure which the Commissioners may have made or incurred under or in pursuance of section 14 of the Act passed in the third year of His Majesty's reign, Chaptered 6, intituled *An Act providing for the Construction of Works of Improvement along the Bank of the Upper Niagara River*, shall be discharged by the application of money to be raised on the debentures authorized under this Act as the Lieutenant-Governor in Council may determine. 8 Edw. VII., c. 29, s. 3, *in part*.

PART II.

BUTLER'S BURYING GROUND.

32.—(1) The Commissioners shall have power to acquire the land set apart as a burying ground, wherein the remains of Colonel John Butler and other officers and men of the corps known as Butler's Rangers, were interred, and described as:

Power to
acquire
Butler's
burying
ground.

All that certain parcel or tract of land situate in the township of Niagara, in the county of Lincoln, containing two rods and thirty-six perches, more or less, and being part of a certain tract of land containing one hundred and fifteen acres, more or less, granted by patent from the Crown, bearing date the fifth day of February, one thousand eight hundred and three, to one Andrew Butler, gentleman, and described as follows:—Commencing in survey at the distance of eighty-six chains from what is called the Mile tree on the Garrison Line, on a course bearing north seventeen degrees west and which said two rods and thirty-six perches are butted and bounded or may be otherwise known as follows, that is to say, commencing at a stone monument marked G.Y. at the southeast angle of the graveyard, thence north eight degrees forty minutes east two chains, thence north forty-nine degrees west along the bottom of the hill two chains, thence south seventy-one degrees west one chain seventeen links, thence south ten degrees west three chains fifty links, thence north seventy degrees east one chain sixty-one links to the place of beginning.

(2) Where the boundaries of such lands have become obliterated the Commissioners shall have power to acquire such parcels of land as they shall determine with the aid of an Ontario Land Surveyor to be identical or as nearly as may be identical with such burying ground.

(3) The Commissioners shall have power to acquire roadways not exceeding 40 feet in width from any of the roads in the neighbourhood of the burying ground.

And
roadways.

(4) Upon acquiring such land, or any part thereof, from any person now in possession of the same or of any part thereof, claiming title by prescription or by conveyance from a person claiming title by prescription, and shewing such title to the satisfaction of the Commissioners, a valid title to such land shall be vested in the Commissioners.

(5) With the consent of the Lieutenant-Governor in Council, the Commissioners may acquire other adjacent lands.

Other
adjacent
lands.

(6) The Commissioners in respect of such lands and ways shall have powers for the acquisition, management, control and improvement thereof similar to those conferred by Part I. 7 Edw. VII. c. 21, ss. 1-4.

General
powers in
relation
thereto.

Rights of
interment
not affected.

33. Nothing in the next preceding section shall authorize the interference with any existing right to inter the body of any deceased person in such burying ground, nor shall anything herein confer the right to remove any body there interred, but, subject to the provisions of this section, the Commissioners shall have the right to enter upon, put in order, maintain and keep in repair such burying ground.
7 Edw. VII., c. 21, s. 5.

PART III.

REPEAL.

Repeal.

34. Chapter 45 of the Revised Statutes, 1897, and all amendments thereto except section 4 of the Act passed in the ninth year of His Majesty's reign, chaptered 24, and Chapter 21 of the Act passed in the seventh year of His Majesty's reign, are repealed.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting The Queen Victoria
Niagara Falls Park.

First Reading

Mr

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act respecting The Queen Victoria Niagara Falls Park.

SHORT TITLE, s. 1.

COMMISSIONERS, s. 2

PART I.

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PARK.

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s. 5.ST. CATHARINES, THOROLD AND
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PART III.

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35.

PART IV.

REPEAL, s. 36.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Queen Victoria Niagara Falls Park Act*." R.S.O. 1897, c. 45, s. 1. Short title.

2.—(1) The Lieutenant-Governor in Council may ap- Board of
Commission-
ers.
point a Board of Commissioners composed of not less than
five persons, which board shall be a corporation by the name
of "The Commissioners for the Queen Victoria Niagara Falls
Park."

(2) The members of the board shall hold office during
pleasure.

(3) The Commissioners shall receive their actual disbursements, but no compensation. R.S.O., c. 45, s. 2.

PART I.

QUEEN VICTORIA NIAGARA FALLS PARK.

Boundaries of
park.

3.—(1) The lands in the vicinity of Niagara Falls selected by the Commissioners and approved by the Lieutenant-Governor in Council, whereof the boundaries as surveyed upon the ground are shown by a red verge line marked upon a map, whereof copies duly certified and authenticated are filed and deposited in the office of the Registrar of the County of Welland and in the Department of Lands, Forests and Mines, excepting thereout the strip of land, lying between Range No. 6, as laid down in the plan of the City of the Falls, in the Township of Stamford, on the north, and by Street's Mill Road and the lands held by the Carmelite Monastery on the south, the easterly boundary whereof is at a distance of 130 feet east of the centre line of the Canada Southern Railway, and the westerly boundary whereof is the westerly line of the Park as marked upon the said map, shall constitute "The Queen Victoria Niagara Falls Park" and shall be vested in the said Corporation as trustees for the Province.

3 Edw. VII.
c. 19.

(2) Until the municipal corporation otherwise enacts by by-law, passed in compliance with section 632 of *The Consolidated Municipal Act, 1903*, Robinson and Murray streets shall be public entrances to the Park for visitors in carriages, or on horses, or on foot. R.S.O. 1897, c. 45, s. 3.

Lands along
river bank.

4. The lands lying along the bank of the Niagara river, and not included in the original survey of lots laid out in the Townships of Stamford and Niagara, which have by order of the Lieutenant-Governor in Council been vested in the Commissioners to be held for the purposes of the Park, and commonly known as "The Chain Reservation," shall form part of the Park and be subject to the control of the Commissioners as other lands within the boundaries of the Park. R.S.O. 1897, c. 45, s. 4.

Foreshores
and part of
bed of Niagara
River may be
vested in
Commission-
ers.

5. The Lieutenant-Governor in Council may also vest in the Commissioners, to be held for the purposes of the Park and subject to any conditions which may be imposed by Order in Council, any portions of the foreshores or bed of the River Niagara or lands covered with water in the River Niagara, which lie in front of the lands vested in the Commissioners by section 3, and which at the time of the Order in Council are the property of Ontario, and the foreshores, bed of the

river and lands so vested shall thenceforth form part of the Park and be subject to the control of the Commissioners as other Park lands. R.S.O. 1897, c. 45, s. 5.

6.—(1) The rights, title, possession and franchises which were held and exercised by the St. Catharines, Thorold, and Niagara Falls Road Company, or by the persons having the title, interest and possessory rights thereof in respect of that portion of the St. Catharines, Thorold, and Niagara Falls Road, between the Table Rock and Niagara Falls Suspension Bridge on lot 92 of Stamford are also vested in the Commissioners.

Rights of proprietors of road vested in Commissioners.

(2) All rights to take and collect tolls, as well as the public rights in the portion of the St. Catharines, Thorold, and Niagara Falls Road, within the limits of the Park, as shown upon the said plan, are extinguished. R.S.O. 1897, c. 45, s. 6.

7. The Commissioners shall have power to construct and operate a street railway over the said road and may build the same to any points or lands vested in the Commissioners and tolls on any such railway may be charged as provided by sections 13 and 15. R.S.O. 1897, c. 45, s. 7.

Commissioners may construct street railway.

8. The Commissioners shall have power to expropriate, in accordance with section 10 the interest of any person in any land lying between the river and the road built on the Chain Reservation, and vested in the Commissioners under the authority of this or any other Act. R.S.O. 1897, c. 45, s. 8.

Powers of expropriation.

9.—(1) The Commissioners with the consent of the Lieutenant-Governor in Council may enter upon, take, use or acquire such lands, tenements and rights as they think expedient to be acquired for the purpose of making, forming and completing any new roads, avenues or approaches to the Park, but, except where the lands, tenements, or rights to be acquired are for the purpose of opening or widening a highway, the Commissioners shall not take any land for the purposes aforesaid without the consent of the parties interested therein. R.S.O. 1897, c. 45, s. 9 (1); 4 Edw. VII. c. 10, s. 9 (1).

Power to acquire lands for approaches, roads, etc.

(2) A highway so opened or widened shall not be used or occupied as a stand by vehicles kept for hire, or by booths or stands for the sale of newspapers or photographs, or for the carrying on of a refreshment business or the like. 4 Edw. VII. c. 10, s. 9 (2).

(The following section is substituted for s. 10 of the Revised Statute. It is taken from The Hydro-Electric Power Act of 1907.)

Procedure to acquire land, etc.

10.—(1) Whenever the Commissioners are authorized by the Lieutenant-Governor in Council to enter upon, take, use or acquire any lands, tenements or rights under the provisions of sections 8, 9 or 12, the Commissioners, in respect thereof shall have the powers and shall proceed in the manner provided by *The Public Works Act* where the Minister of Public Works takes land or property for the use of the Province, and the provisions of that Act shall *mutatis mutandis* apply. See 7 Edw. VII. c. 19, s. 9.

(2) The compulsory powers conferred by this Act shall extend to lands, works, rights, powers, privileges and property notwithstanding that the same are or may be deemed to be devoted to the public use or that the owner thereof possesses the power to take lands compulsorily. See 7 Edw. VII. c. 19, s. 10.

Issues of debentures authorized.
50 V. c. 13.

11.—(1) The debentures, amounting to \$525,000, issued by the Commissioners under the authority of *The Queen Victoria Niagara Falls Park Act*, 1887, and countersigned by the Treasurer of the Province and guaranteed by Order in Council, shall, equally and without preference of one over another, be a charge on all the revenues of the Corporation, and subject thereto the further issue amounting to \$75,000, subsequently issued by the Commissioners under the authority of *The Act respecting the Queen Victoria Niagara Falls Park*, passed in the fifty-seventh year of the reign of Her late Majesty Queen Victoria, countersigned and guaranteed as aforesaid, shall also equally and without preference of one over another, be a charge on the said revenues.

57 V. c. 13.

(2) The debentures being so issued and countersigned shall be conclusive of the same having been issued in pursuance of the said Acts, and of the same being guaranteed by the Province of Ontario.

(3) The debentures and the coupons for interest annexed thereto shall be transferable by delivery. R.S.O. 1897, c. 45, s. 11.

Further issue of debentures for \$300,000.

12.—(1) Subject to the debentures issued and secured under section 11 in the order of charge thereby enacted the Commissioners may, with the approval of the Lieutenant-Governor in Council, issue further debentures to an amount not exceeding in all \$300,000 for improvements and the appropriation and application of the proceeds, the form

and effect of the debentures, their payment with interest, as also the security guarantee and negotiability thereof shall be as provided by section 11 with respect to the debentures therein mentioned. 8 Edw. VII. c. 29, s. 1; 9 Edw. VII. c. 24, s. 2.

(2) The proceeds of the further debentures mentioned in subsection 1 shall be applied by the Commissioners primarily towards the preservation of the bank of the Niagara River, between Fort Erie and the southerly boundary of the Park proper against erosion, wash or other action by nature affecting or which may affect the same, and the construction of an esplanade on and along the said bank for public purposes and of such width as may be determined and for the purchase of such land as may be necessary or the acquisition thereof by expropriation in accordance with the powers exercisable by the Commissioners under this Act. The holders of the debentures shall not be required to see to the application of the said proceeds. 8 Edw. VII. c. 29, s. 2 (1).

Applications
of proceeds
of further
issue.

(3) A plan and survey shall be made of the lands which the Commissioners propose to purchase, take or acquire under the powers conferred by subsection 2.

(4) The plan shall be approved and certified by the Commissioners who shall keep one copy thereof on file in their office and a duplicate shall be deposited in the office of the Minister of Public Works.

(5) If any alterations in the plan or survey of the land proposed to be taken are deemed advisable to be made, the Commissioners may make the same and a plan in duplicate showing such alterations on the same scale and containing the same particulars as the original plan and survey shall be deposited and kept in the same manner as the original plan and survey.

(6) A copy of any such plan or survey, certified by the Chairman, under the corporate seal of the Commissioners, shall be evidence that the original thereof was deposited at the time certified thereon and shall be prima facie proof of the original so deposited and that the same was signed, certified or otherwise approved of by the Commissioners in the manner in which the same purports to be signed and certified and that the same was prepared and approved by the Commissioners. See 6 Edw. VII. c. 30, s. 59, ss. (2), (3), (8), (12), (*The Ontario Railway Act, 1906*).

13.—(1) Subject to any direction of the Lieutenant-Governor in Council, the Commissioners may

Powers of
Commis-
sioners.

- (a) Construct and operate inclined planes and hydraulic or other lifts, to be worked by any power; and may build and operate boats or vessels to be used in connection with the Park;
- (b) Pull down all houses and other erections and buildings on lands acquired and purchased by the authority of this Act, or such of them or such part thereof as they shall think proper to be pulled down, and may level and clear the ground whereon the same stand, in such manner as they think proper, and sell the materials of the houses and other buildings to be taken down and removed; and the moneys to be produced by the sale thereof, after deducting expenses, and also the rents and profits to which they may be entitled meantime, shall be applied in carrying out the purposes of this Act;
- (c) Lay out, plant and enclose the Park in such manner as they think fit, and improve and develop the same in accordance with the objects of this Act;
- (d) Take and collect tolls for the use of constructions, appliances, vessels or works required to afford facilities to visitors to reach and view the points of interest within the Park, and involving the expenditure of money in construction and maintenance, as well as for services to be rendered for the convenience or accommodation of visitors;
- (e) Make orders and regulations for opening and closing the gates and entrances of the Park, at such hours as they think fit, but so as not to interfere with, or affect, an agreement heretofore entered into between the Commissioners and the Canada Southern Railway Company. R.S.O. 1897, c. 45, s. 12.

Park to be a
Public Work.

14. All works or lands whereon any expenditure is authorized in pursuance of this Act shall be deemed and are declared to be Public Works of Ontario notwithstanding that they are in the care or charge of the Commissioners. 9 Edw. VII. c. 24, s. 3, *part*.

15. No by-law, plan of works proposed, tariff of toll or payment for the use of works, vessels or services, shall be acted upon until approved by the Lieutenant-Governor in Council. R.S.O. 1897 c. 45, s. 13.

Plans, tolls and by laws subject to approval of Lieutenant-Governor.

16. The Park Grounds shall be open to the public, subject to any rules and regulations as to management approved by the Lieutenant-Governor in Council. R.S.O. 1897, c. 45, s. 14.

Grounds open to public.

17.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commissioners may make by-laws for the use, government, control and management of the Park, and for the protection and preservation of all works of the same from injury, and of the trees, shrubs, walks, seats, gates, fences and palings and all other parts thereof, and for the exclusion of improper persons from the same, and may by any such by-law impose a penalty, not exceeding \$20, for any breach thereof. R.S.O. 1897, c. 45, s. 15, *part*.

Powers of commissioners as to by-laws.

(2) Any offence against any such by-law shall be punishable upon summary conviction under *The Ontario Summary Convictions Act*. 8 Edw. VII., c. 29, s. 4.

Offences against by-laws.

18.—(1) The Commissioners may appoint such officers as may be required for the superintendence and management of the Park, and may also appoint Park keepers and other officers to preserve order in the Park, and may dismiss any persons so appointed.

Park officers.

(2) Such appointments or dismissals shall be subject to the approval of the Lieutenant-Governor in Council.

(3) The salaries of such officers shall be payable out of any funds in the hands of the Commissioners.

(4) The Commissioners may employ gardeners and workmen, as they may deem necessary, and may dismiss or dispense with the services of such persons, subject to any directions of the Lieutenant-Governor in Council. R.S.O. 1897, c. 45, s. 15, *part*.

Gardeners and workmen.

19. The Commissioners shall cause books to be provided and true and regular accounts to be entered therein of all moneys received and paid, and of the several purposes for which the same were received and paid; and such books shall at all times be open to the inspection of any of the Commissioners, and of the Treasurer of Ontario and of any person appointed by the Commissioners or Treasurer for that purpose, and of any other person appointed by the Lieu-

Books of account to be kept.

tenant-Governor; and any Commissioner and any such person may take copies of or extracts from such books. R.S.O. 1897, c. 45, s. 15.

Securities for moneys.

9 Edw. VII.
c. 5.

20. Any person entrusted by the Commissioners with the custody or control of money by virtue of his employment shall give security in the manner and form provided by *The Public Officers Act*. R.S.O. 1897, c. 45, s. 15, *part*.

Revenue and rental payable by certain Power Companies.

21. (1) The revenues and rentals payable or collectable under the several agreements made by and between the Commissioners acting on their own behalf and with the approval of the Government of the Province of Ontario and the Canadian Niagara Power Company, the Ontario Power Company of Niagara Falls and the Electrical Development Company of Ontario, Limited, shall be applied:—

(a) To the payment half-yearly of the interest payable on the debentures issued by the Commissioners, namely, such as are described in section 11, and such as have been issued or are issuable under section 12, in all \$900,000;

(b) To provide a sinking fund at the rate of one per cent. per annum on the entire amount of the debentures.

(2) The application of the sinking fund in respect of such debentures shall be as provided by section 23. 9 Edw. VII. c. 24, s. 5.

Collection and application thereof.

22. Subject to any direction or order of the Lieutenant-Governor in Council, and to the provisions of this Act, the Commissioners may continue to collect the revenues and rentals in the next preceding section mentioned, and for the years, 1910, 1911 and 1912 and shall apply the same in accordance with the provisions of that section. 9. Edw. VII. c. 24, s. 6.

Application of revenue.

23. The revenue received from the sources authorized by this Act and any excess of revenue received under the next two preceding sections shall be applied as follows:—

1st. To the necessary outgoing expenses of all works necessary to the preservation, improvement, and maintenance of the Park, and to the payment of the salaries of the officers and others employed by the Commissioners, and other incidental expenses.

2nd. To the payment half-yearly of the interest payable on the debentures issued by the Commissioners.

3rd. To provide a sinking fund at the rate of one per cent. per annum on the entire amount of the debentures issued as aforesaid. R.S.O. 1897, c. 45, s. 16.

24. The annual sums for the sinking fund shall be remitted by the Commissioners to the Treasurer of Ontario by half-yearly payments in such manner as the Lieutenant-Governor in Council may direct. R.S.O. 1897, c. 45, s. 17.

Application of sinking fund.

25.—(1) The Commissioners shall make an annual report for the information of the Legislature, setting forth the receipts and expenditure of the year and such other matters as may appear to them to be of public interest in relation to the Park, or as the Lieutenant-Governor in Council may direct.

Annual report and accounts.

(2) Sections 11 and 29 to 31 of *The Audit Act* shall apply to the accounts of the Commissioners in respect of receipts and expenditures. R.S.O. 1897, c. 45, s. 18.

8 Edw. VII. c. 9, ss. 11, 29-31 to apply.

26.—(1) The Commissioners may empower the Clifton Suspension Bridge Company to operate their cars by any power, except steam, to and from their bridge across the Chain Reservation, subject to any order of the Board of Railway Commissioners of Canada in that behalf and subject to the rights if any of the Niagara Falls Park and River Railway Company, and to the terms of any agreement made with such company.

Operating cars across the Clifton Suspension Bridge.

(2) Any agreement between the Commissioners and the Clifton Suspension Bridge Company heretofore made which, if made hereafter, would be authorized by this section, is confirmed as if made after the passing of this Act. R.S.O. 1897, c. 45, s. 22.

27. Subject to the approval of the Lieutenant-Governor in Council, the Commissioners may, upon terms to be agreed on, grant to the Clifton Suspension Bridge Company, or any other duly incorporated bridge company, any rights over or in respect of lands held by the Commissioners which may be required for the purposes of building any new bridge over the Niagara river, or of confirming the present occupation of land by any bridge company now existing, but this shall not authorize the granting of any rights for the purpose in this section mentioned, through the lands vested in the Commissioners by section 3. R.S.O. 1897, c. 45, s. 23.

Granting rights over lands to bridge companies.

Rights not to be granted in Park proper.

Commissioners empowered to grant strip to Clifton Suspension Bridge Company.

28. Subject to the approval of the Lieutenant-Governor in Council, the Commissioners may grant to the Clifton Suspension Bridge Company a strip of Land from the Chain Reservation along the Niagara River and abutting the lands in occupation of the Company. R.S.O. 1897, c. 45, s. 24.

Agreement for surrender of powers of Canadian Niagara Power Co.

29. The Commissioners with the approval of the Lieutenant-Governor in Council and the Canadian Niagara Power Company may enter into an agreement for the surrender and abandonment of the sole or exclusive right to use the waters of the Niagara River within the limits of the Park granted by the agreement bearing date the seventh day of April, 1892, and set out in Chapter 8 of the Statutes of Ontario, 1892, upon such terms and conditions as to abatement of rent, the extension of time for the completion of the contract under the agreement or any variation of such contract and for other purposes in connection therewith as may to the Commissioners and the Lieutenant-Governor in Council appear to be necessary or in the public interest, and any such agreement so entered into shall be binding and effectual according to its terms. 62.V. (2), c. 11, s. 35.

Agreements with other companies.

30. The Commissioners with the approval of the Lieutenant-Governor in Council may enter into an agreement or agreements with any person or corporation to take water from the Niagara River or from the Niagara and Welland Rivers at certain points within or without the Park for the purpose of enabling such person or corporation to generate within or without the Park electricity, pneumatic, hydraulic or other power, conducting and discharging such water through and across the Park or otherwise, in such manner, for such rental and upon such terms and conditions as may be embodied in the agreement, and as may appear to the Lieutenant-Governor in Council to be in the public interest; but no such agreement shall be operative unless and until ratified and confirmed by resolution of the Assembly. 62 V. (2), c. 11, s. 36; 3 Edw. VII. c. 7, s. 52.

Expenditure made under 3 Edw. VII. c. 6, may be met out of debentures issued under this Act.

31. Any expenditure which the Commissioners may have made or incurred under or in pursuance of section 14 of the Act passed in the third year of His Majesty's reign, Chaptered 6, intituled *An Act providing for the Construction of Works of Improvement along the Bank of the Upper Niagara River*, shall be discharged by the application of money to be raised on the debentures authorized under this Act as the Lieutenant-Governor in Council may determine. 8 Edw. VII., c. 29, s. 3, *in part*.

PART II.

BUTLER'S BURYING GROUND.

32.—(1) The Commissioners shall have power to acquire the land set apart as a burying ground, wherein the remains of Colonel John Butler and other officers and men of the corps known as Butler's Rangers, were interred, and described as: Power to acquire Butler's burying ground.

All that certain parcel or tract of land situate in the township of Niagara, in the county of Lincoln, containing two rods and thirty-six perches, more or less, and being part of a certain tract of land containing one hundred and fifteen acres, more or less, granted by patent from the Crown, bearing date the fifth day of February, one thousand eight hundred and three, to one Andrew Butler, gentleman, and described as follows:—Commencing in survey at the distance of eighty-six chains from what is called the Mile tree on the Garrison Line, on a course bearing north seventeen degrees west and which said two rods and thirty-six perches are butted and bounded or may be otherwise known as follows, that is to say, commencing at a stone monument marked G.Y., at the southeast angle of the graveyard, thence north eight degrees forty minutes east two chains, thence north forty-nine degrees west along the bottom of the hill two chains, thence south seventy-one degrees west one chain seventeen links, thence south ten degrees west three chains fifty links, thence north seventy degrees east one chain sixty-one links to the place of beginning.

(2) Where the boundaries of such lands have become obliterated the Commissioners shall have power to acquire such parcels of land as they shall determine with the aid of an Ontario Land Surveyor to be identical or as nearly as may be identical with such burying ground.

(3) The Commissioners shall have power to acquire roadways not exceeding 40 feet in width from any of the roads in the neighbourhood of the burying ground. And roadways.

(4) Upon acquiring such land, or any part thereof, from any person now in possession of the same or of any part thereof, claiming title by prescription or by conveyance from a person claiming title by prescription, and shewing such title to the satisfaction of the Commissioners, a valid title to such land shall be vested in the Commissioners.

(5) With the consent of the Lieutenant-Governor in Council, the Commissioners may acquire other adjacent lands. Other adjacent lands.

(6) The Commissioners in respect of such lands and ways shall have powers for the acquisition, management, control and improvement thereof similar to those conferred by Part I. 7 Edw. VII. c. 21, ss. 1-4. General powers in relation thereto.

Rights of
interment
not affected.

33. Nothing in the next preceding section shall authorize the interference with any existing right to inter the body of any deceased person in such burying ground, nor shall anything herein confer the right to remove any body there interred, but, subject to the provisions of this section, the Commissioners shall have the right to enter upon, put in order, maintain and keep in repair such burying ground.
7 Edw. VII., c. 21, s. 5.

PART III.

LUNDY'S LANE CEMETERY.

Drummond
Hill Bury-
ing Ground
vested in
commission.

34.—(1) The interest of the Crown in the lands set apart as a burying ground and sometimes known as Drummond Hill Burying Ground, is hereby vested in the Commissioners, which said lands are particularly described as follows:—

All and singular that certain parcel or tract of land and premises situate, lying and being in the City of Niagara Falls in the County of Welland and being composed of Lot No. 6, on the south side of Lundy's Lane between Victoria Street and Main Street and Lot No. "C" in the rear thereof, both being known as part or parcel of the Drummond Hill Burying Ground and shown upon plan No. 653 registered for the Village of Niagara Falls, and which may be better described as follows, that is to say;—Commencing at the north-west corner of said Lot No. 6, thence southerly and along the westerly limit of said lots Nos. 6 and "C" four hundred and forty feet ten and one-half inches, more or less to the south-west corner of said lot "C," thence easterly along the south limit of said lot "C" three hundred and six feet eleven inches, more or less, to the south-east corner of said lot "C", thence northerly along the east limit of said lots "C" and 6, four hundred and forty feet ten and one-half inches more or less to the south side of Lundy's Lane and thence westerly along the said south side of Lundy's Lane three hundred and six feet eleven inches, more or less, to the place of beginning.

(2) The commissioners in respect of such land shall have powers for the management, control and improvement thereof similar to those conferred by Part I.


Existing
rights as to
burial pre-
served.

35. Nothing in the next preceding section shall authorize the interference with any existing right to inter the body of any deceased person in such burying ground, nor shall anything herein confer the right to remove any body there

interred, but, subject to the provisions of this section, the commissioners shall have the right to enter upon, put in order, maintain and keep in repair such burying ground.

PART IV.

REPEAL.

36. Chapter 45 of the Revised Statutes, 1897, and all ^{Rev. stat.} amendments thereto except section 4 of the Act passed in ^{c. 45} ^{repealed.} the ninth year of His Majesty's reign, chaptered 24, and Chapter 21 of the Act passed in the seventh year of His Majesty's reign, are repealed. 

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting The Queen Victoria
Niagara Falls Park.

*(Reprinted as amended in Committee of
the Whole House.)*

First Reading 31st day of January, 1910
of February, 1910Second Reading 1st day

Mr. Foy

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act to secure Payment of Wages for Labour performed in the Construction of Works.

SHORT TITLE, s. 1.

PUBLIC WORKS:

Wages of employees on public works, s. 2.

List of employees to be furnished, ss. 3-5.

SUBSIDIZED WORKS:

Retaining portion of legislative grant, s. 6.

WORKS BY CHARTERED COMPANIES:

Companies hereafter incorporated to be liable for wages due by contractors, s. 7.

Notice of unpaid wages, and proceedings thereon, s. 8.

REPEAL, s. 9.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PUBLIC WORKS.

1. This Act may be cited as "*The Public and other Works Wages Act.*" Short title.

2. If any contractor with His Majesty, or any sub-contractor in the construction of any public work let under contract by His Majesty, makes default in the payment of the wages of any foreman, workman or labourer, employed on such work, or in the payment of any sum due by him for the labour of any such foreman, workman or labourer, or of any team employed on such work, and if a claim therefor is filed in the office of the Minister entering into such contract on behalf of His Majesty, not later than two months after the same becomes due, and satisfactory proof thereof is furnished, His Majesty may pay such claim to the extent of the amount of all moneys or securities in the hands of His Majesty for securing the performance of the contract at the time of the filing of the said claim. R.S.O. 1897, c. 155, s. 1; R.S.C. 1906, c. 98, s. 2.

Payment of wages of employees of contractors or sub-contractors out of securities held by Crown.

3. His Majesty may, in writing, require any such contractor or sub-contractor to file in the office of the Minister, not later than the fifteenth day of each month, a list showing the names, rate of wages, amounts paid and amounts due and unpaid for wages or labour done by any foreman, workman,

List of employees, etc., to be furnished when required.

labourer or team employed by the contractor or sub-contractor during the previous month, and such list shall be attested upon the oath of the contractor or sub-contractor or his authorized agent. R.S.O. 1897, c. 155, s. 2.

Failure to
furnish list.

4.—(1) Every contractor or sub-contractor, who makes default in forwarding such list, shall incur a penalty not exceeding \$100 and not less than \$10 for every day during which default continues.

Penalty.

(2) The amount of such penalty, within the above limits, shall be determined by the Minister under whom the work is being executed, and may be deducted out of the moneys in the hands of the Crown deposited by or owing to such contractor and shall be vested in His Majesty. R.S.O. 1897, c. 155, s. 3.

When sub-
contractor
fails to
furnish list.

5. Where default is made by a sub-contractor in furnishing such list, the penalty for such default, hereinbefore provided, may also be recovered, with costs, at the suit of the Crown in any Court of competent jurisdiction. R.S.O. 1897, c. 155, s. 4.

SUBSIDIZED WORKS.

Retaining por-
tion of legis-
lative grant
and paying
wages, etc.,
thereout.

6.—(1) Where any subsidy, advance, loan or bonus of money is authorized by the Legislature to be granted to any company or person towards the construction of any railway or other work it shall, in the absence of special provision by the Legislature to the contrary, be a condition of the grant that so much of the money may be retained as the Lieutenant-Governor in Council may think proper to secure the payment of claims for wages of persons employed on such railway or work whether by such company or by any contractor or sub-contractor, or for sums due or to become due for labour of persons or teams so employed.

(2) If any such claim remains unpaid for thirty days after notice thereof has been served upon the Minister charged with the duty of seeing that the conditions upon which such aid is granted are duly carried out, the Lieutenant-Governor in Council may, on being satisfied that such claim is due and unpaid, direct that it be paid together with all proper costs and charges in connection therewith out of any moneys so retained. R.S.O. 1897, c. 155, s. 5.

WORKS BY CHARTERED COMPANIES.

Companies
incorporated to
be liable for
wages due by
contractors,
etc.

7.—(1) Every company incorporated under any Act of the Legislature shall be liable for the payment of the wages of the foremen, workmen, labourers or teams employed in

the construction of any work in Ontario done by or for the company, whether directly under the company or through the intervention of any contractor or sub-contractor.

(2) Nothing herein shall prejudice or affect the right of any person against any contractor or sub-contractor with whom he has contracted under any other Act or law in force in Ontario. R.S.O. 1897, c. 155, s. 6.

8.—(1) Where any such foreman, workman or labourer is not paid his wages for himself or his team by any contractor or sub-contractor by whom he has been employed, a notice stating the name of the claimant and the amount of wages claimed, the rate of such wages, the nature and amount of work done, the time when, the place where, and the name of the contractor or sub-contractor, superintendent or foreman under whom such work was done, may be served upon the company not later than two months after such wages are earned. ^{Notice of unpaid wages.}

(2) The notice shall be followed up by the commencement of a suit in a court of competent jurisdiction for the collection of such wages, within thirty days after the service of such notice; otherwise the liability mentioned in the last preceding section shall cease. ^{Suit.}

(3) The notice mentioned in subsection 1, and any summons, notice, order or other process required to be served upon the company for the prosecution of such claim, may be served upon the president, vice-president, secretary, managing director, superintendent, or engineer, or any recognized officer representing the company, or by leaving it with any adult person at the office or residence of any of them. R.S.O. 1897, c. 155, s. 7; *see* R.S.C. 1906, c. 98, ss. 7 and 8. ^{Service of notice or process.}

9. Chapter 155 of the Revised Statutes, 1897, and all amendments thereto are repealed. ^{Repeal.}

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to secure Payment of Wages for
Labour performed in the Construction
of Works.

First Reading	day of	1910
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Mr. REAUME.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting Wages.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

PRIORITY IN ASSIGNMENTS FOR
BENEFIT OF CREDITORS, s. 3.PRIORITY OVER EXECUTION CREDI-
TORS, s. 4.

IN CASE OF ATTACHMENT, s. 5.

IN ADMINISTRATION CASES, s. 6.

WAGES OF MECHANICS NOT ATTACH-
ABLE, EXCEPT EXCESS OVER \$25,
s. 7.WHEN TO BE PAID OVER BY AS-
SIGNEE, ADMINISTRATOR, ETC.,
s. 8.

Protection of assignee, s. 8 (3).

Joinder of claims, s. 8 (4).

REPEAL, s. 9.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. This Act may be cited as "*The Wages Act*."

Short title.

2. In this Act "Wages" shall mean and include wages and salary whether the employment in respect of which the same is payable is by time or by the job or piece or otherwise.
R.S.O. 1897, c. 156, s. 1.

Interpreta-
tion
"Wages."

3. Where an assignment is made for the general benefit of creditors of any real or personal property the assignee shall pay, in priority to the claims of the ordinary or general creditors of the assignor, the wages of all persons in the employment of the assignor at the time of the making of the assignment, or within one month before the making thereof, not exceeding three months' wages, and such persons shall rank as ordinary or general creditors for the residue, if any, of their claims. R.S.O. 1897, c. 156, s. 2.

Wages or
salaries to
have priority
in assign-
ments for
benefit of
creditors.

(As to wages in case of winding up a company see *The Ontario Companies Act*. 7 Edw. VII. c. 34, ss. 178 and 196.)

4. All persons who, at the time of the seizure by the sheriff, or who within one month previous thereto have been in the employment of the execution debtor, and who shall become entitled to share in the distribution of money levied

And over
execution
creditors.

9 Edw. VII.
c. 48.

out of the property of a debtor within the meaning of *The Creditors' Relief Act*, shall be entitled to be paid out of such money the wages due to them by the execution debtor, not exceeding three months' wages; in priority to the claims of the other creditors of the execution debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O. 1897, c. 156, s. 4.

And in case
of attach-
ment.

9 Edw. VII.
c. 49.

5. All persons in the employment of an absconding debtor at the time of a seizure by the sheriff under *The Absconding Debtors Act*, or within one month previous thereto, shall be entitled to be paid by the sheriff, out of any moneys realized out of the property of the debtor, the wages due to them by the debtor, not exceeding three months' wages, in priority to the claims of the other creditors of the debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O., 1897, c. 156, s. 5.

And in ad-
ministration
of estates.

6. In the administration of the estate of any person dying on or after the 13th day of April, 1897, any person in the employment of the deceased at the time of his death, or within one month previous thereto, who is entitled to share in the distribution of the estate, shall be entitled to his wages not exceeding three months' thereof in priority to the claims of the ordinary or general creditors of the deceased, and such person shall be entitled to rank as an ordinary or general creditor of the deceased for the residue, if any, of his claim. R.S.O. 1897, c. 156, s. 6.

Debts due to
mechanics,
etc., for
wages, not to
be attached,
except excess
over \$25.

7.—(1) No debt due or accruing due to a mechanic, workman, labourer, servant, clerk or employee, for or in respect of his wages, shall be liable to seizure or attachment, unless such debt exceeds the sum of \$25, and then only to the extent of such excess. R.S.O. 1897, c. 156, s. 7.

Exception as
to debt for
board or
lodging.

(2) Nothing in this section shall apply to any case where the debt has been contracted for board or lodging, and in the opinion of the judge before whom the matter is brought the exemption of \$25 is not necessary for the support and maintenance of the debtor's family, or where the debtor is an unmarried person, having no family depending on him for support, and the debt was contracted on or after the 23rd day of March, 1889. R.S.O. 1897, c. 60, s. 181.

When wages
to be payable
on distribu-
tion of estate
by assignee,
administra-
tor, etc.

8.—(1) Wages in respect of which priority is herein conferred shall become due and be payable by the assignee, liquidator, sheriff, executor, administrator or other person charged with the duty of winding up or distributing the estate within one month from the time when the estate has been received by him or placed under his control, unless it appears to him that the estate is not of sufficient value to pay

the claims or charges thereon having by law priority over the claims for wages and the ordinary expenses and disbursements of winding up and distributing the estate.

(2) Ordinary expenses shall not include the cost of litigation or other unusual expenses concerning the estate or any part thereof unless the same were incurred with the consent in writing of the person entitled to the wages or are afterwards adopted or ratified by him in writing.

(3) Any such assignee, liquidator, sheriff, executor, administrator or other person may forthwith, upon such estate coming to his hands, pay the prior claims for wages without being chargeable in case it shall in the end appear that the estate was insufficient to have justified such payment, provided he has acted in good faith and has reasonable grounds to believe that the estate would prove sufficient.

Proviso:—
protection of
assignee, etc.,
paying claims
for wages.

(4) Any number of claimants in respect of such prior claims for wages upon the same estate may join in any action, suit or other proceeding for the enforcement of their claims.

Claimants
may join in
action for
wages.

62. V. (2), c. 17, s. 1.

(As to wages payable to employees of contractors for public works, see Rev. Stat. Cap. 155.)

9. Chapter 156 of the Revised Statutes, 1897, and all amendments thereto are repealed.

Repeal.

No. 154

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Wages.

First Reading	day of	1910.
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Mr. REAUME

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

An Act respecting Master and Servant.

SHORT TITLE, s. 1.

LIMITATION OF VOLUNTARY CONTRACTS OF SERVICE, s. 2.

AGREEMENT FOR SHARE OF PROFITS OF BUSINESS, s. 3.

COMPLAINTS BY SERVANTS FOR NON-PAYMENT OF WAGES, s. 4.

PROCEEDINGS BEFORE POLICE MAGISTRATES, ss. 5-8.

SPECIAL PROCEEDINGS BEFORE CITY POLICE MAGISTRATE, s. 7.

SERVICE OF SUMMONS, s. 8.

APPEALS ss. 9-10.

AGREEMENTS WAIVING ACT VOID, s. 11.

REPEAL, s. 12.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Master and Servant Act*." Short title.

LIMIT OF TIME OF CONTRACT.

2. No voluntary contract of service or indenture entered into by any persons shall be binding on them, or either of them, for a longer time than a term of nine years from the date thereof. R.S.O. 1897, c. 157, s. 2. No voluntary contract of service or indentures to be binding longer than nine years.

PROFIT-SHARING AGREEMENT.

3.—(1) An agreement entered into by a workman, servant or employee and his master or employer under which a share of the profits of any trade, calling, business or employment is to be paid to the workman, servant or employee in lieu of or in addition to salary, wages or other remuneration unless the agreement otherwise provides or a contrary intention may be reasonably inferred therefrom shall not

Agreement for share in profits of business.

(a) create any relation in the nature of a partnership or the rights or liabilities of partners, or

(b) give to the workman, servant or employee the right to examine into the accounts or interfere in the management or affairs of the trade, calling or business.

Employer's
statement of
profits to be
final.

(2) Any statement or return by the employer of the net profits of the trade, calling, business or employment on which he declares and appropriates the share of profits payable under such agreement shall be final and conclusive between the parties and all persons claiming under them, and shall not be impeachable upon any ground whatever, except fraud. R.S.O. 1897, c. 157, ss. 3 and 4.

PROCEEDINGS BEFORE JUSTICES OF THE PEACE.

Complaints by
servants
for non-pay-
ment of
wages.

4.—(1) Upon the complaint upon oath of a servant or labourer against his master or employer concerning any non-payment of wages, a Justice of the Peace may summon the master or employer to appear before him at a reasonable time to be stated in the summons, and he or some other Justice, upon proof on oath of the personal service of the summons, or of its service as hereinafter authorized, shall examine into the matter of the complaint, whether or not the master or employer appears, and upon due proof of the cause of complaint, the Justice may discharge the servant or labourer from the service or employment of the master or employer, and may direct the payment to him of any wages found to be due, not exceeding the sum of \$40, and the Justice shall make such order as to him seems just and reasonable for the payment of such wages, with costs, and in case of the non-payment of the same together with the costs for the space of eight days after the order has been made, the Justice shall issue his warrant of distress for the levying of the wages, together with the costs of the order and of the distress. R.S.O. 1897, c. 157, s. 11.

Complaints
may be in
any county
or district.

(2) A complaint may be prosecuted and determined in any county or district in which the person complained against is found, or in any county or district in which the person complained against carries on business. R.S.O. 1897, c. 157, s. 10.

Time within
which pro-
ceedings may
be taken.

(3) Proceedings may be taken under this Act within one month after the engagement or employment has ceased, or within one month after the last instalment of wages under the agreement of hiring has become due, whichever shall last happen.

Work done in
Ontario under
verbal
agreement
made out of
Ontario.

(4) Proceedings may be had for non-payment of wages in respect of service or labour performed in Ontario upon a verbal or written agreement or bargain made out of Ontario. R.S.O. 1897, c. 157, s. 12.

When master
claims set-off.

(5) Where the master or employer claims a set-off or makes a claim for unliquidated damages the Justice of the

Peace shall investigate the same and give judgment for the balance of wages, if any, due to the claimant, after deducting such set-off or claim.

(6) The Justice of the Peace shall not have jurisdiction to adjudicate upon a set-off or claim exceeding the claim for wages, except to the extent of the wages. R.S.O. 1897, c. 157, s. 15 *part*.

5. Where the proceedings are taken before a Police Magistrate, and payment of wages is ordered by him to be made by the master or employer to the servant or labourer, and the same are not paid within the time limited by the order, the same proceedings may be taken by the person claiming the benefit of the order as may be taken by a party having an unsatisfied judgment or order in a Division Court for the payment of any debt, damages or costs, as respects the examination of the judgment debtor touching his estate and effects, the means he has of discharging his liability, and the disposal he has made of any property, and the Police Magistrate shall have the like power and authority to enforce payment of the debt as are possessed by a judge of a Division Court in like cases; and the practice and proceedings thereon shall be the same as nearly as may be and have the same effect as provided in *The Division Courts Act* with respect to judgment debtors. R.S.O. 1897, c. 157, s. 13.

Proceedings
before a
Police
Magistrate.

Rev. Stat., c.
60, ss. 243-
254.

6. Subject to the provisions of section 7, the Police Magistrate may name in the order for payment of wages, such time not exceeding 21 days, as to him may seem just and reasonable for the payment of the same and costs, and in case of non-payment within such time the complainant shall be entitled to take forthwith the proceedings for enforcing payment herein provided. R.S.O. 1897, c. 157, s. 14.

Limit of time
or payment.

SPECIAL PROCEEDINGS BEFORE CITY POLICE MAGISTRATES.

7.—(1) In the case of wages due to any mechanic, labourer or other person in respect of work of the character mentioned in section 4 of *The Mechanics' and Wage Earners' Lien Act*, the jurisdiction of a Police Magistrate of a city under this Act shall extend to wages for thirty days, or for a balance equal to the wages for thirty days, though the same or the balance thereof exceed the sum of \$40.

Jurisdiction
of Police
Magistrate in
cities.

Rev. Stat.
c. 153.

(2) Where no specific rate of wages has been expressly agreed to between the parties, the Police Magistrate of a city may order payment of the wages, reckoning the amount thereof according to the current rate of wages in the city in like cases, or according to what may appear to be a just and reasonable allowance. R.S.O. 1897, c. 157, s. 15, *part*.

Where no
specific rate of
wages agreed
on.

Order for
payment of
wages; en-
forcing.

(3) The order shall direct payment of the wages to be made forthwith, and a warrant of distress shall be issued accordingly, unless the master makes oath, and the Police Magistrate believes, that the master is unable to make the payment forthwith, and expects to be able to pay and intends to pay the same within the time given, and unless also the Police Magistrate considers the proposed delay to be under the circumstances reasonable, and the Magistrate, if he sees fit, may order security to be given as a condition of delay.

Adjournment
at instance of
master.

(4) In case of an adjournment at the instance of the master, the same shall be on payment for the claimant's time in attending the court, the amount to be fixed by the Police Magistrate, and such payment shall be made forthwith unless the Police Magistrate sees reason for dispensing with immediate payment.

Order of
Police Magis-
trate may be
enforced in
Division
Court.

(5) The order for payment may be filed in that Division Court which would be the proper Court for bringing an action for the wages, and on such filing the order shall become a judgment of such Division Court, and may be enforced as a judgment of that Court. R.S.O. 1897, c. 157, s. 16.

SERVICE OF SUMMONS.

Service of
summons, etc.

8.—(1) Every summons issued under this Act against an individual, firm or corporation, and every subsequent paper or proceeding in the action or proceeding in which the summons has been issued may be served, except in the cases provided for by subsection 2, upon the person to whom it is directed either by delivering it to him personally, or if he cannot conveniently be found, by leaving the same for him at any place where such individual, firm or corporation carries on business within the county or district in which the Justice of the Peace issuing the summons has jurisdiction, with some adult person employed in the office or place of business of such person. R.S.O. 1897, c. 157, s. 17 (1); 63 V. c. 17, s. 20.

Service on
certain public
companies.

(2) In cases against railway, telegraph, telephone or express companies every such summons and other papers may be served on any agent of the company whose office or place of business as such agent is within such county or district; and for the purposes of this section the word "agent" shall include:—

(a) In the case of a railway company, a station master having charge of a station belonging to the company;

(b) In the case of a telegraph company, a person having charge of a telegraph office belonging to the company;

(c) In the case of a telephone company, a person having charge of a telephone office belonging to the company; and

(d) In the case of an express company, a person having charge of an express office belonging to the company.

(3) Service as authorized by this section shall have the same effect as personal service. R.S.O. 1897, c. 157, s. 17 Effect of service under this section.
(2-3).

APPEALS.

9.—(1) An appeal from an order for the payment of wages, or order of dismissal from service or employment or against any decision of any Justice of the Peace or Police Magistrate under this Act shall be made to the Division Court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the Division Court holden in the division in which the party or parties complained against or one of them carried on business, and in case of dismissal of the appeal or affirmance of the order or decision, the Court appealed to shall enforce the order for payment of wages or of dismissal, and for the payment of the costs awarded, and shall, if necessary, issue process for carrying such judgment into effect. R.S.O. 1897, c. 157, ss. 18 and 23. Mode of appeal.

(2) The appeal shall be taken within the time and in the manner provided by *The Ontario Summary Convictions Act* as to appeals to a Division Court and the proceedings upon and incidental to the appeal and subsequent thereto shall except as provided by subsection 1 and by section 10 be the same as in the case of an appeal under *The Ontario Summary Convictions Act*.

10.—(1) The appeal may be tried with a jury if the appellant files with the clerk of the court within ten days after the order or decision a notice requiring a jury, or if the respondent, within four days after the service of the notice of appeal upon him, files a notice with the clerk, requiring a jury, and if the proper fees are in either case deposited with the clerk; otherwise the Judge may try the Case to be entered by clerk.

appeal without a jury or may summon a jury from the body of the Court as to him seems meet. R.S.O. 1897, c. 157, s. 21.

Time and place for hearing appeals.

(2) Upon the application of either party when a jury is not required the Judge may try the appeal at such time and place as he may appoint, and upon such notice as to him seems reasonable. R.S.O. 1897, c. 157, s. 22.

AGREEMENTS WAIVING ACT.

Contracts waiving application of Act to be void.

11.—(1) Every agreement or bargain, verbal or written, expressed or implied, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act whereby it is agreed that this Act shall not apply, or that the remedies hereby provided shall not be available for the benefit of any person entering into such agreement, is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic, or other person. R.S.O. 1897, c. 157, s. 24.

Section not to apply to certain persons.

(2) This section shall not apply to any manager, officer or foreman or to any other person whose wages are more than \$5 a day. R.S.O. 1897, c. 157, s. 25.

Repeal.

12. Chapter 157 of the Revised Statutes, 1897, excepting section 1, and all amendments thereto, are repealed.

No. 155

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting Master and Servant.

First Reading	day of	1910
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Mr. REAUME

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting Councils of Conciliation and of Arbitration for settling Industrial Disputes.

SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 DISPUTES WITHIN THE ACT, s. 3.
 REGISTRAR, s. 4.
 COUNCIL OF CONCILIATION, s. 5.
 PROCEDURE FOR CONCILIATION, ss. 6-13.
 COUNCILS OF ARBITRATION, ss. 14, 15.
 PROCEDURE FOR ARBITRATION, ss. 16-22.

POWERS OF COUNCILS, s. 23.
 PROFESSIONAL ASSISTANCE PROHIBITED, s. 24.
 PARTIES NOT TO PAY REGISTRAR, s. 25.
 REMUNERATION OF MEMBERS OF COUNCIL, s. 26.
 WITNESS FEES, s. 27.
 REGULATIONS AND FORMS, s. 28.
 IRREGULARITIES, s. 29.
 REPEAL, s. 30.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Trade Disputes Act*." Short title. R.S.O. 1897, c. 158, s. 1.

2. In this Act,

Interpreta-
tion.

(a) "Employer" shall mean and include any person or body of persons, incorporated or unincorporated employing not less than ten workmen in the business in which the trade dispute has arisen;

(b) "Employees" shall mean and include a person or persons in the employment of an employer
 R.S.O. 1897, c. 158, s. 2.

3.—(1) A claim or dispute under this Act shall include any disagreement between an employer and his employees in respect of:—

Claims and
disputes
within the
Act.

(a) The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages, or to the hours or times of working;

- (b) Damage alleged to have been done to work, delay in finishing the same, not finishing the same in a good and workmanlike manner or according to agreement;
- (c) Materials supplied to employees and alleged to be bad, or unfit, or unsuitable;
- (d) The price to be paid for mining any mineral or substance mined, or obtained by mining, hewing, quarrying or other process; or the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral substance is impeded;
- (e) The performance or non-performance of any stipulation or matter alleged to have been in an agreement, whether in writing or not;
- (f) Insufficient or unwholesome food supplied to employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind;
- (g) Ill-ventilated or dangerous workings or places in mines, or unwholesome or insanitary rooms or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places;
- (h) The dismissal or employment under agreement of employees, or,
- (i) The dismissal of employees for their connection with any trade or labour organization.

(2) No claim or dispute shall be the subject of conciliation or arbitration in any case in which the employees affected by such claim or dispute shall be fewer in number than ten.
R.S.O. 1897, c. 158, s. 3.

Office of
Registrar.

4.—(1) The Lieutenant-Governor in Council may appoint a Registrar of Councils of Conciliation and of Arbitration for the settlement of industrial disputes.

(2) Such office shall be assigned to some person performing other duties in the public service, unless and until the duties are so onerous as to require a separate appointment.

(3) It shall be the duty of the Registrar to receive and register, and, subject to the provisions of this Act, to deal with all applications by employers or employees for reference to a Council of Conciliation or to the Council of Arbitration, of any claim or dispute within the meaning of this Act; to convene such councils for the purpose of dealing with any claim or dispute, to keep a register in which shall be entered the particulars of all references and settlements of claims and disputes made to and by a Council of Conciliation, and of all references and awards made to and by the Council of Arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties under this Act or the regulations made in pursuance thereof.

Duties, etc., of Registrar.

(4) The Registrar shall issue all summonses, Form 15, to witnesses to attend to give evidence, with or without the production of papers and documents, and shall issue all notices and perform all other acts in connection with the sittings of each such Council in the prescribed manner. R.S.O. 1897, c. 158, s. 4.

Registrar to summon witnesses and issue notices.

(5) If any difference shall arise between any employer and his employees, likely to result, or resulting in a strike on the part of such employees, or a lockout on the part of the employer, it shall be the duty of the Registrar, when requested in writing to do so by five or more of the employees, or by the employer, or by the head of the municipality in which the industry is situated, to visit the place of such disturbance and diligently seek to mediate between the employer and employees.

Registrar to proceed to locality where strike or lock-out threatened.

(6) It shall be the duty of the Registrar to promote conditions favourable to a settlement by endeavouring to allay distrust, to remove causes of friction, to promote good feeling, to restore confidence, and to encourage the parties to come together and themselves effect a settlement, and also to promote agreements between employers and employees with a view to the submission of differences to conciliation or arbitration before resorting to a strike or lock-out. 2 Edw. VII., c. 22, s. 1.

Duty of Registrar in adjusting disputes.

COUNCIL OF CONCILIATION.

5.—(1) A Council of Conciliation for the purpose of any dispute or claim shall consist of four conciliators, two to be nominated by each of the parties to the dispute.

Councils of conciliation.

(2) The nomination shall be by writing lodged with the Registrar.

Nomination of conciliators.

Filing
nomination
papers.

(3) Either party may lodge the nomination papers with the Registrar at any time after the dispute has arisen; and if the Registrar has not already received a nomination of two conciliators on behalf of the other party, he shall give notice to such other party of the nomination which he has received.

Extraordinary
vacancies.

(4) Any vacancy in a Council of Conciliation arising through the death, resignation, or otherwise, of any member thereof shall be filled in the same way as the appointment was first made, namely, on the nomination of the party whose conciliator has ceased to be a member of the Council. R.S.O. 1897, c. 158, s. 5.

PROCEDURE FOR CONCILIATION.

Reference
to council of
conciliation.

6. A claim or dispute within the meaning of this Act may be referred for settlement to a Council of Conciliation where:—

Agreement to
refer.

(a) The parties to the claim or dispute jointly agree in the prescribed manner, Form 2, to refer such claim or dispute for settlement to a Council of Conciliation, or,

Application
for reference.

(b) Either party to the claim or dispute in the prescribed manner, lodges an application, Form 3, with the Registrar requesting that the claim or dispute be referred for settlement to a Council of Conciliation. R.S.O. 1897, c. 158, s. 6.

Duties of
Registrar
on application
for reference.

7. The Registrar, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council; and subject to the provisions of this Act and the regulations shall carry out all directions of the said Council given in the endeavour of the Council to effect a settlement of the claim or dispute. R.S.O. 1897, c. 158, s. 7.

Representa-
tives before
council of
conciliation.

8. Either party to the claim or dispute may, for the purposes of this Act, be represented by one or more persons, not exceeding three, authorized by such party as managers in that behalf; and such party shall be bound by the acts of such managers. R.S.O. 1897, c. 158, s. 8.

When man-
agers must
have written
authority.

9. Where the party numbers fewer than twenty, the managers must be authorized in writing, Form 4, signed by the members of the party to act for and on their behalf. R.S.O. 1897, c. 158, s. 9.

10.—(1) Where the party numbers twenty or more, the managers may be appointed or elected in such manner as the members of the party think proper. Election of managers as representatives.

(2) A copy of the resolution electing the managers, together with a declaration by the chairman or president of the meeting stating it to have been carried, shall be kept as a record of the election. R.S.O. 1897, c. 158, s. 10.

11.—(1) The parties to the claim or dispute shall, if possible, agree to a joint written statement of their case; but if they do not so agree, a statement in writing from each party shall be made. Written statement of case.

(2) The statement or statements shall be forwarded to the Registrar before the meeting of the Council. R.S.O. 1897, c. 158, s. 11.

12. When the parties to a claim or dispute have named their conciliators, the Registrar shall by notice in writing, Form 5, convene a meeting of the conciliators at a time and place mentioned in the notice, the same being selected with due regard to the general convenience of the conciliators and the parties. R.S.O. 1897, c. 158, s. 12. Convening meeting of conciliators.

13.—(1) The Council shall transmit to the Registrar a report, Form 6 and 7, setting forth the result of the reference. Report of council.

(2) In case such report is to the effect that the Council has failed to bring about any settlement or adjustment of the claim or dispute, the Registrar on the receipt of the report, shall transmit a certified copy to each party to the claim or dispute; whereupon either party may, by notice in writing, Forms 8 and 9, require the Registrar to refer the claim or dispute to the Council of Arbitration for settlement, Form 10. R.S.O. 1897, c. 158, s. 13. When council report their failure to bring about settlement.

THE COUNCILS OF ARBITRATION.

14.—(1) There shall be two Councils of Arbitration, Establishment of councils of arbitration.

(a) A Council of Arbitration for the settlement by award in respect of claims and disputes between railway companies, including street railway companies, and wage earners employed in respect of railway construction or traffic on railways; and

(b) A Council of Arbitration in respect of other claims and disputes.

Each council to consist of three members.

(2) Each Council shall consist of three members, one to be appointed by the Lieutenant-Governor on the recommendation of the employees, and one to be appointed by him on the recommendation of the employer.

Appointment of president by agreement.

(3) The third member of each Council shall be the president of the Council and shall be appointed in manner following, namely: The two members appointed shall within twenty-one days after their appointment, submit, Form 1, to the Lieutenant-Governor the name of some impartial person to be appointed by him to the position of President.

Appointment of president on failure to agree.

(4) In case of the said two members failing so to do, the Lieutenant-Governor may appoint as President an impartial person not personally connected with or, interested in any trade or industry, or in the judgment of the Lieutenant-Governor likely, by reason of his former occupation, business vocation or other influence, to be biassed in favour of or against employers or employees.

(5) The same person may be President of both Councils.

Council to be gazetted.

(6) As soon as practicable after a full Council has been appointed by the Lieutenant-Governor, notice of the appointment and the names of the members of the Council shall be published by the Registrar in the *Ontario Gazette*.

Cancellation of appointment of member of council.

(7) The Lieutenant-Governor may cancel the appointment of any member on the recommendation of the authority by which his appointment was recommended.

Term of office.

(8) The term of office of a member shall be two years; and at the end of every term of two years, a fresh appointment of members shall be made in manner aforesaid.

Members eligible for re-appointment.

(9) Every member after the expiry or other termination of his term of office shall be eligible for reappointment for a like term.

When president or members to forfeit office.

(10) If the President of a Council shall be declared a bankrupt or insolvent, or shall make a composition with his creditors, or shall make an assignment of his property or salary for the benefit of his creditors, or if any member of either council shall be convicted of any criminal offence, such President or member respectively shall thereby vacate his office of member.

(11) Any vacancy in a council arising from death, resignation or other cause, shall be filled by the Lieutenant-Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act. Vacancies, disabilities, etc.

(12) In case the President of a council is unable to act as such from illness, absence from the Province, or other temporary cause, the Lieutenant-Governor may appoint a person to be acting President of the Council in his place; and such acting President shall have all the powers and perform all the duties conferred by this Act upon the President. Temporary appointment of president.

(13) If any member of a Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any claim or dispute then pending, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Lieutenant-Governor, of a member named in such writing to act for and in the place of the member during such disability; and if either of the parties refuse such consent, then the Judge of the County or District Court of the county or district in which the matter is situate with respect to which the claim or dispute has arisen may, on notice to the parties of the application to him, make the nomination; and the Lieutenant-Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all the purposes relating to such claim or dispute, and to the hearing and determination thereof. Illness or disability of member of council while reference pending.

(14) Where a dispute has been referred to either Council of Arbitration the members of the Council of Conciliation may, with the consent in writing, Form 13, of both parties to the claim or dispute, sit as assessors upon the reference to the Council of Arbitration; Provided always that no such assessor shall take any part in the reference except as an assessor sitting to inform the Council of Arbitration when called upon to do so. Members of council of conciliation may sit as assessors. Proviso.

(15) The members of each Council of Arbitration shall be remunerated for their services in such manner and according to such rate of payment as the Lieutenant-Governor in Council shall appoint, but subject to legislative provision being made therefor. R.S.O. 1897, c. 158, s. 14. Remuneration of members of councils.

15. The following may be the method of ascertaining the recommendation of employer and employees as to the persons to be appointed on their recommendation respectively as members of the Councils of Arbitration: Mode of appointing arbitrators by employers and employees.

Qualification
of voters in
the interest
of employers.

(a) For the person to be recommended by the employer every employer in Ontario shall be entitled to one vote; every organization in Ontario, whether incorporated or unincorporated, representing the interests of employers, each member of which has at least ten persons in his employment, shall be entitled to one vote;

(b) Every Board of Trade in Ontario legally constituted shall be entitled to one vote for a representative of the employer in each Council;

Who may vote
for person to
be recom-
mended in
the interest
of employees.

(c) For the person to be recommended by employees as a member of the Council in matters not relating to railway companies, every trades and labour council, every district assembly of the Knights of Labour, every federated council of building trades, every lawfully incorporated trades union, every organization of wage-earners of an industrial calling primarily constituted for, and actually and *bona fide* operated for the regulation of the wages and hours of labour as between employers and employed, shall be entitled to one vote; but this shall not be deemed to include co-operative associations or societies formed under *The Revised Statute respecting Co-operative Associations*;

Rev. Stat.
c. 202.

Who may
vote for per-
son to be
recommended
in the interest
of railway
employees.

(d) For choosing the person to be recommended by employees of railway companies as a member of the Council in matters relating to railways, every organization in Ontario, whether incorporated or unincorporated exclusively representing the interest of wage-earners employed in respect of railway construction or traffic on railways shall be entitled to one vote; but this shall not be deemed to include co-operative associations or societies;

Notice to
representative
interests.

(e) The Registrar shall give notice in the *Ontario Gazette* calling on all organizations and persons entitled to vote for a member to be recommended to either Council, or claiming to be so entitled, to communicate with him on or before the 1st day of August, 1910, and the same day of every second year thereafter. Such notice is to be inserted for at least four weeks before the said day in each of the said years;

Lists to be
prepared.

(f) The Registrar shall forthwith, after such first day of August, prepare a list of the persons and or-

ganizations appearing to be entitled to vote for a person to be recommended for appointment to each of the said Councils respectively, and may refer any doubtful claim to the Minister of Agriculture for his advice or direction;

- (g) Each list so to be prepared shall give the last known post office address of every person and organization entitled to vote as employers and employees respectively for the said Councils respectively, and shall be published in the *Ontario Gazette*, and shall be open to inspection at any time by any person without fee, in the office of the Registrar during office hours;
- (h) Between the 1st and 30th days of September, 1910, Voting papers to be transmitted to persons entitled to vote. and between the same days of every second year thereafter, the Registrar shall transmit by registered post to the address of each person and organization entitled to vote, a voting paper, Form 16.
- (i) The voting paper of any person entitled to vote under this Act as an employer shall be signed by himself or some person duly authorized in writing in that behalf, and the voting paper of any organization entitled to vote shall be signed by the president or vice-president of the organization, or, in the absence of such president or vice-president, by any office bearer of the organization other than the secretary thereof, and shall be countersigned by the secretary or acting secretary, or, in the absence of such secretary or acting secretary, by any two members not being office bearers. Signing voting papers. The voting papers of a Board of Trade shall be under the corporate seal of the Board;
- (j) The voting paper shall be forwarded in a stamped envelope, addressed to the Registrar of Councils of Conciliation and Arbitration, Toronto, and endorsed, "Voting paper under *The Trade Disputes Act*," Addressing voting papers.
- (k) Every voting paper shall be forwarded by mail or otherwise to the Registrar so as to be received by him on or before the 15th day of October of the year in which the voting is to be held and any voting paper received by the Registrar after the said date shall have no effect or validity; When voting papers to be mailed. Voting papers not received in time.

Count of
votes and
report to
be published.

- (l) The Registrar shall forthwith after the said 15th day of October, count the recommendations as well by or on behalf of employees, as by or on behalf of employers for each Council, and shall forward the same to the Minister of Agriculture, together with the Registrar's report thereon; and the Minister of Agriculture, upon being satisfied of the accuracy of such report, shall publish in the *Ontario Gazette* the result of such recommendations, and the names of the persons appointed by the Lieutenant-Governor upon such recommendations to be members of the Councils of Arbitration; and also the names of, and number of votes given for the five persons who have received the greater number of votes for each Council on behalf of employers and employees respectively;

Where parties
fail to recom-
mend member
of council of
arbitration.

- (m) In case either employers or employees, or both, fail to recommend any person to represent them on either or both the Councils as provided for in this section, the Lieutenant-Governor in Council may appoint a person or persons to fill the vacancy or vacancies. R.S.O. 1897, c. 158, s. 15.

PROCEDURE FOR ARBITRATION.

Reference to
arbitration,
how made,
etc.

16.—(1) Any dispute or claim within the meaning of this Act may be referred to the appropriate Council of Arbitration for its hearing and determination in any of the following cases:—

- (a) On application, Form 9, to the Registrar by either party to a claim or dispute which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council;
- (b) On application, Form 8, to the Registrar by both parties to a claim or dispute, which has not been so referred to a Council of Conciliation.

Proviso.

Provided that if in either case the award of the Council of Arbitration is not complied with or carried out by the parties, or for any reason proves abortive, the parties to the reference or either of them shall not thereby be precluded from referring the dispute to a Council of Conciliation or from making a second reference to the Council of Conciliation where a former reference has already been made to it.

(2) If in case of a claim or dispute within the meaning of this Act, one party has lodged an application with the Registrar requesting that the dispute or claim be referred to a Council of Conciliation, and appointing two conciliators for the purpose and notice of the application and of the appointment of conciliators has been duly given to the other party, and such other party has not within a reasonable period appointed conciliators, and the party lodging the application has not proceeded to a strike or lock-out, as the case may be, the Council of Arbitration, if it thinks fit, may proceed as in case of an abortive reference to a Council of Conciliation, and such Council may report their decision, as to the proper settlement of the dispute in question and also in case the Council thinks proper, a concise statement as to the origin of the dispute, and the causes inducing the same, and what parties, if any, are in the opinion of the Council mainly responsible for the same;

Where attempt to take conciliation proceedings has failed.

(3) The Mayor of any city or town upon being notified that a strike or lock-out is threatened, or has actually occurred within the municipality, shall at once notify the Registrar thereof by writing, stating the name of the employer, the nature of the dispute, and the number of employees involved, as far as his information will enable him to do;

Mayors to notify registrar of strike or lock-out.

(4) It shall be the duty of each of the Councils of Arbitration, upon being notified, or on being otherwise made aware, that a strike or a lock-out has occurred or is threatened, to place itself, as soon as practicable, in communication with the parties concerned and to endeavor by mediation to effect an amicable settlement, and if in the judgment of the council it is deemed best to enquire into the cause or causes of the controversy it shall proceed as in the case of a reference. R.S.O. 1897, c. 158, s. 16.

Duty of councils of arbitration on being notified of strike or lock-out.

17. In every case referred to a Council of Arbitration, or in which the Council has determined to act under the preceding section of this Act, the Council shall have power to require either or each party to the claim or dispute to name not more than three persons, who, upon their consent in writing, Form 14, shall for all purposes of the reference be taken to represent such party. R.S.O. 1897, c. 158, s. 17.

Provisions as to parties and representatives.

18.—(1) The Council shall sit and conduct its proceedings as in open court, and in making its decision shall be governed by the principles of equity and good conscience.

Conduct of proceedings of council of arbitration.

(2) The President shall for the purpose of preserving order during any sitting of the Council have all the powers of a Judge of the High Court except the power of committing for contempt. R.S.O. 1897, c. 158, s. 18.

Quorum of
council of
arbitration.

19. Any two members of the Council of Arbitration shall constitute a quorum for the transaction of business, and may hold meetings at any time and at any place within Ontario. R.S.O. 1897, c. 158, s. 19.

Investigation
of disputes by
one member
of board.

20. The Council of Arbitration may order that an examination or investigation shall be held before any one member of the Council, but such member shall report upon such examination or investigation to the Council, and the decision of such member shall not be considered binding until approved by the Council or a majority thereof. R.S.O. 1897, c. 158, s. 20.

Award, how
to be made.

21.—(1) The report or award, Form 11, of the Council of Arbitration shall be made within one month after the Council has completed its sittings for the hearing of the reference, and shall be by, and under the hands of, a majority of the members of the Council.

(2) At the request of either party and if the Council approve, a copy of the report or award shall be published by the Registrar in *The Ontario Gazette*.

(3) The report or award, or a copy certified under the hand of the President of the Council, shall be deposited in the office of the Registrar, and shall be open to inspection without charge during office hours. R.S.O. 1897, c. 158, s. 21.

Award may
be enforced
by legal pro-
ceedings if
so agreed.

22.—(1) Either party to a reference to either Council of Arbitration at any time before award made, may by writing under the hands of such party, Form 12, agree to be bound by the award of the Council upon the reference in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under *The Arbitration Act*.

9 Edw. VII.
c. 35.

(2) Every such agreement made by one party shall be communicated by the Registrar to the other party, and if such other party also agrees in like manner to be bound, then the award may, on the application of either party, be enforced in the same manner as an award on an ordinary submission in writing to arbitration may be enforced under the said Act. R.S.O. 1897, c. 158, s. 22.

MISCELLANEOUS PROVISIONS.

23. The Councils of Conciliation and Arbitration shall have power— Powers of councils.

- (a) To visit the locality where the trade dispute has arisen and to hear all persons interested who may come before them; To visit locality.
- (b) To summon, Form 15, any person to attend as a witness before the Council, and in the case of any person so summoned refusing to attend after payment or tender of his proper fees, application may be made in a summary way to a Justice of the Peace having jurisdiction in the city, town or county wherein the council may be sitting for an order compelling such attendance; and such Justice of the Peace is hereby empowered to make such order as might be made in any case wherein such Justice has power to compel appearance before him in pursuance of *The Ontario Summary Convictions Act*, and Enforcing attendance of witnesses. Rev. Stat. c. 90.
- (c) To administer an oath to any person attending as a witness before the Council and to examine any such person on oath or affirmation. Taking evidence on oath. R.S.O. 1897, s. 23.

24. No party to any proceeding either before a Council of Conciliation or a Council of Arbitration shall be represented by counsel or solicitor or by any paid agent other than one or more of the persons between whom the claim or dispute has arisen. Professional assistance not permitted R.S.O. 1897, c. 158, s. 24.

25. No fees shall be paid to the Registrar by any party in respect of any proceeding under this Act. Registrar not to receive fees. R.S.O. 1897, c. 158, s. 25.

26. Every member of a Council of Conciliation while engaged in adjustment of any dispute shall be remunerated for his services as follows:— Remuneration of members of council of conciliation

Preliminary meetings	\$3
Whole-day sittings	\$4
Half-day sittings	\$2

out of any funds which may be appropriated by the Legislature for that purpose. R.S.O. 1897, c. 158, s. 26.

Witnesses'
fees.

27. Witnesses shall be entitled to the same fees as in a Division Court. R.S.O. 1897, c. 158, s. 27.

Regulations.

28.—(1) The Lieutenant-Governor may make regulations for the purpose of giving effect to any of the provisions or requirements of this Act, and all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Ontario Gazette*.

(2) Such regulations shall be laid before the Assembly within fourteen days after being published in the *Ontario Gazette* if the Legislature is in session; and if it is not in session, then such regulations shall be laid before the Assembly within fourteen days from the date of the first day of the ensuing session of the Legislature. R.S.O. 1897, c. 158, s. 28.

Informalities
not to invali-
date proceed-
ings.

29. No proceeding under this Act shall be deemed invalid by reason of any defect of form, or any technical irregularity. R.S.O. 1897, c. 158, s. 30.

Repeal.

30. Chapter 158 of the Revised Statutes 1897, and all amendments thereto are repealed.

FORM 1.

RECOMMENDATION AS TO PRESIDENT OF THE COUNCIL OF ARBITRATION.

We, the undersigned arbitrators, appointed under the provisions of *The Trade Disputes Act*, submit the name of _____ of _____ as that of an impartial person, qualified for the position of President of the Council of Arbitration as respects railway disputes (or as respects disputes other than railway disputes).

Dated this _____ day of _____

FORM 2.

AGREEMENT OF BOTH PARTIES TO REFER TO CONCILIATION.

(To be prepared in duplicate.)

Memorandum of agreement made this _____ day of _____, between _____, employers, and _____ employees.

Whereas a claim or dispute in respect of matters hereinafter stated has arisen between the parties hereto, they do hereby refer the said claim or dispute for settlement to a council of conciliation, and we, the undersigned, as managers for the said employers, do hereby name and declare _____ and _____

to be conciliators for such employers; and we, the undersigned, as managers for the employees, do hereby name _____ and _____ to be the conciliators for such employees upon such council as aforesaid.

The claim or dispute is as follows (*here state the matter or matters in dispute*).

Now, we, the parties hereto, do hereby request the Registrar to have the said claim or dispute referred to a council of conciliation consisting of the aforesaid persons.

(To be signed by the)

Managers for the Employers.

Managers for the Employees.

Witness:

(Appointment of Managers to be attached).

See Form 4.

FORM 3.

APPLICATION BY ONE PARTY TO REFER TO CONCILIATION.

(Date.)

Whereas a claim or dispute has arisen between employers and employees; we, the undersigned managers for and on behalf of the aforesaid, apply to have the said claim or dispute referred to a council of conciliation, and hereby name and declare of and of to be our conciliators upon such council as aforesaid.

The dispute or claim is as follows *(here state the matter or matters in dispute.)*

Managers for

(Appointment of Managers to be attached.)

See Form 4.

FORM 4.

AUTHORITY TO MANAGERS TO ACT.

We, the undersigned employers (or employees), one of the parties to the claim or dispute between and authorize of of and of to represent us, as managers before the council of conciliation and we hereby agree to be bound by the acts of these our representatives.

Dated this day of 19

(Where the appointment is made by employees it should be signed by not fewer than ten of such employees.)

Witness:

FORM 5.

CONVENING A MEETING OF CONCILIATORS.

(Date.)

I beg to inform you that you have been selected as a conciliator to deal with a certain dispute or claim between employers and employees.

You are requested to attend a meeting of the conciliators in the above matter, to be held on the day of at in the when the application in the said matter will be laid before you.

I have the honour to be

Your obedient servant,

FORM 6.

TERMS OF SETTLEMENT OR ADJUSTMENT AFTER REFERENCE TO COUNCIL
OF CONCILIATION.

Memorandum of settlement made this _____ day of _____
between _____, employers, and
employees.

Whereas a claim or dispute having arisen between
employers and _____ employees _____ were appointed
conciliators, and the undersigned _____ were appointed
managers for the said _____ and the undersigned, _____ were
appointed managers for the said _____ it is hereby declared
that a settlement or adjustment of the said claim or dispute has
been arrived at in the following terms, to which terms the said
managers hereby agree for and on behalf of the said parties re-
spectively:

(Set forth terms of settlement.)

In witness whereof we, the undersigned, have hereunto set our
hands.

A.B., C.D., Managers for Employers.

E.F., G.H., Managers for Employees.

I., J., K., Conciliators.

FORM 7.

REPORT BY CONCILIATORS OF FAILURE TO SETTLE.

(Date.)

To the Registrar.

Whereas a certain claim or dispute was referred to us for con-
ciliation by _____, employers and
employees, and such conciliation was duly entered upon, the parties
aforesaid being duly represented by their respective managers and
evidence was taken (*omit the latter words if such was not the case*),
and the claim or dispute referred to us was fully discussed, but no
settlement or adjustment was arrived at. Now, we, the conciliators
hereinafter subscribed, report that we have been unable to bring
about any settlement or adjustment of the claim or dispute so re-
ferred, satisfactory to the parties thereto.

A. B., C., D., Conciliators.

FORM 8.

JOINT APPLICATION TO REFER TO THE COUNCIL OF ARBITRATION.

(Date.)

To the Registrar under *The Trade Disputes Act*.

Whereas a claim or dispute in respect of matters hereinafter
stated has arisen between _____, employer and
employees.

We, the undersigned, _____ managers for the said em-
ployers, and we, the undersigned, _____ managers for the
said employees, duly appointed to represent the interests of the
said parties respectively hereby apply to have the said claim or
dispute referred to the council of arbitration.

The claim or dispute is as follows:

(Here state the matter in dispute.)

Managers for Employers.

Managers for Employees.

(Appointment of Managers to be attached.)

See Form 4.

FORM 9.

APPLICATION BY ONE PARTY TO REFER TO THE COUNCIL OF ARBITRATION AFTER FAILURE OF COUNCIL OF CONCILIATION.

(Date.)

To the Registrar under *The Trade Disputes Act.*

Whereas a claim or dispute having arisen between employers, and employees, was referred to a council of conciliation, and the said council failed to settle or adjust the same; now, therefore, we, the undersigned, being the managers duly appointed to represent , one of the parties to the said reference, do hereby require you to refer the said claim or dispute to the council of arbitration.

Managers.

FORM 10.

REFERENCE TO COUNCIL OF ARBITRATION AFTER FAILURE OF COUNCIL OF CONCILIATION.

(Date.)

To the President of the Council of Arbitration as respects railway disputes (or as respects disputes other than railway disputes.)

Whereas a certain claim or dispute having arisen between and the same was referred for conciliation to and they have reported that they have been unable to bring about any settlement or adjustment of the said claim or dispute satisfactory to the parties thereto, and whereas one of the parties to the claim or dispute requires such claim or dispute to be referred to the council of arbitration. Now therefore, I do so refer the said claim or dispute to the said council, and herewith transmit all the papers in the said reference to you as president of the said council.

Registrar.

FORM 11.

AWARD.

We, President and Arbitrators as respects railway disputes (or as respects disputes other than railway disputes) (or a majority of the council of arbitration), in the claim or dispute between employers, and employees, do hereby award that *(here set forth the award.)*

Given under our hands this day of A.D. 19
(President.)
(Arbitrators.)

Witness:

(Registrar.)

FORM 12.

AGREEMENT TO BE BOUND BY AWARD.

Memorandum of Agreement made this day of
19 , between and

Whereas certain claims or disputes (*here state shortly the nature of the claim or dispute*) have arisen between the parties hereto, and it is desirable to refer the same to the council of arbitration as respects railway disputes (*or as respects disputes other than railway disputes*) and for the said parties to be bound by the award of the said council of arbitration in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under *The Arbitration Act*.

Now it is hereby agreed by and between the parties aforesaid to refer the said claims or disputes to the award of the said council of arbitration, and each of the said parties agrees with the other to be bound by the award of the said council in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under *The Arbitration Act*.

In witness whereof, we, the managers duly appointed and authorized to represent the parties hereto, have hereunto set our hands the day and year above written.

Witness:

Managers for Employers.

Managers for Employees.

FORM 13.

CONSENT OF PARTIES TO CONCILIATORS BEING ASSESSORS IN COUNCIL OF ARBITRATION.

(Date.)

We, the managers appointed to represent the parties in the matter of the claim or dispute between , employers, and employees, hereby consent to members of the council of conciliation to which the matter aforesaid was referred, sitting as assessors upon the reference to the council of arbitration.

Managers for Employers.

Managers for Employees.

FORM 14.

CONSENT OF MANAGERS TO ACT BEFORE THE COUNCIL OF ARBITRATION.

(Date.)

To the Registrar.

Whereas the council of arbitration has required one of the parties to a claim or dispute between and referred to the said Council for award, to name not more than three persons, who, upon their consent in writing, shall for all purposes of the above reference be taken to represent such persons, now we, the undersigned, having been duly named as such persons, do hereby consent to represent the said party for all the purposes of the hereinafore mentioned reference and in witness of such consent hereunto set our hands.

(Signed)

Witness:

FORM 15.

SUMMONS TO WITNESSES BEFORE EITHER COUNCIL.

To

Whereas a council of conciliation (or the council of arbitration as respects railway disputes) (or as respects disputes other than railway disputes (constituted under *The Trade Disputes Act* has now before it for conciliation (or arbitration, as the case may be), a claim or dispute between _____ employers, and _____ employees; and whereas the said

_____ desire that you should attend before the said council _____ witness to give evidence, and have authorized and required me _____ as registrar, to issue this summons for your attendance. I do hereby, in exercise of the powers in this behalf given by the said Act, summon and require you to attend at _____, on _____, the _____ day of _____ at the hour of _____, in the _____ noon of the said day, at _____, before the said council, there to be examined and give evidence as to and concerning the said claim or dispute, and so to attend from day to day thereafter until you have been duly discharged by the said council from further attendance.

[And I further require you to bring with you and produce at the time and place aforesaid (documents, etc., if any, required to be produced by witness.)]

In default of your attending at the time and place aforesaid, you are liable to be proceeded against under the provisions of *The Trade Disputes Act*.

In witness whereof, I, the said _____, as such Registrar as aforesaid, have hereunto set my hand this _____ day of _____, 19 _____

A.B.,

Registrar.

NOTE.—The witness is entitled to the same witness fees as in a Division Court.

FORM 16.

VOTING PAPER OF (naming the person or organization).

A.B. (person recommended) is hereby recommended to be appointed a member of the council of arbitration for disputes between railway companies and their employees (or in matters not relating to railway disputes) under *The Trade Disputes Act*, on behalf of the employer (or employees, as the case may be;)

(Signed,)

R.S.O. 1897, c. 158, Sched.

No. 156

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Councils of Conciliation
and of Arbitration for settling
Industrial Disputes.

First Reading	day of	1910
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Mr. REAUME.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act respecting the Clergy Reserves and the
Upper Canada Grammar School Lands.

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of
Ontario, enacts as follows:—

1. All moneys arising from the Clergy Reserves and the
Upper Canada Grammar School Lands in Ontario shall be
paid into and form part of the Consolidated Revenue Fund
of Ontario, freed and discharged of and from all trusts
whatsoever, as proceeds from sales of ordinary Crown
Lands.

Proceeds of
Clergy Reserves
and Upper
Canada Gram-
mar School
lands to be paid
into Consoli-
dated Revenue.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting the Clergy Reserves
and the Upper Canada Grammar
School Lands.

First Reading 27 January, 1910.

Mr. MATHESON.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting the Public Works of Ontario.

SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 DEPARTMENT AND MINISTER OF
 PUBLIC WORKS, s. 3.
 Deputy Minister, s. 4.
 Other Officers and Servants, s.
 5.
 POWERS AND DUTIES OF MINISTER,
 ss. 6-12.
 POWER TO TAKE LAND, ETC. SS.
 13-17.
 Expropriation, ss. 18, 19.
 Agreements and conveyances,
 s. 20.

Warrant for possession, s. 21.
 Compensation for land taken,
 ss. 22-38.
 Interest, s. 39.
 CLAIMS UNDER CONTRACTS MAY BE
 REFERRED TO ARBITRATION, s.
 40.
 PAYMENT OF COMPENSATION, s. 41.
 LANDS VESTED IN HIS MAJESTY,
 ss. 42-48.
 APPLICATION OF ACT TO COMMIS-
 SION APPOINTED BY LEGIS-
 LATURE, s. 49.
 REPEAL, s. 50.

HIS MAJESTY, by and with the advice and consent
 of the Legislative Assembly of the Province of
 Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Public Works Act*. Short title.

2. In this Act

Interpreta-
tion.

- (a) "Conveyance" shall include a surrender to the Crown; "Convey-
ance."
- (b) "Department" shall mean the Department of Public Works; "Depart-
ment."
- (c) "Judge" shall mean the Judge of the County or District Court of the county or district in which the land or property or any part thereof entered upon, taken or appropriated under the provisions of this Act is situate, or a Judge of the High Court; "Judge."
- (d) "Land" shall include any estate, term, easement, right or interest in, to, over or affecting land; "Land."
- (e) "Lease" shall include an agreement for a lease; "Lease."

- "Minister." (f) "Minister" shall mean the Minister of Public Works;
- "Owner." (g) "Owner" shall include a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested.
- "Public Work." (h) "Public work" or "public works" shall mean and include the dams, hydraulic works, hydraulic privileges, harbours, wharfs, piers, docks and works for improving the navigation of any water, the lighthouses and beacons, the slides, dams, piers, booms and other works for facilitating the transmission of timber, the roads and bridges, the public buildings, the telegraph lines, Government Railways, canals, locks, drydocks, and all other property belonging to Ontario, and also all works and properties acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of Ontario, or for the acquisition, construction, repairing, equipping, extending, enlarging or improving of which any public moneys are appropriated by the Legislature, and every work required for any such purpose, but not any work for which money is appropriated as a subsidy only;
- "Registry office." (i) "Registry office" shall include Land Titles office and shall mean the registry or Land Titles office for the registry division or locality within which the land is situate.
- "Superintendent." (j) "Superintendent" shall mean the superintendent of the public work of which he has, under the Minister, the charge and direction;
- "Surrender." (k) "Surrender" shall include a conveyance to His Majesty, or to the Minister, or to any officer of the Department, in trust for or to the use of His Majesty. R.S.O. 1897, c. 37, s. 1. See R.S.C. 1906, c. 143, s. 2.

Department
and Minister
of Public
Works.

3. There shall continue to be a Department of Public Works, over which the Minister of Public Works shall preside.
R.S.O. 1897, c. 37, s. 2.

Deputy
Minister.

4. There shall be a Deputy Minister of Public Works, who shall be appointed by the Lieutenant-Governor in Council

and shall perform such duties as may be assigned to him by the Lieutenant-Governor in Council or by the Minister. *New.*

5. The Lieutenant-Governor in Council may also appoint other officers and servants. an architect, an engineer, a secretary, a law clerk, an accountant, and as many other officers and servants as from time to time may be deemed necessary for the proper conduct of the business of the Department and for the construction, maintenance, use and repair of public works and all property real and personal connected therewith or under its control; and all such officers and servants shall have such powers and perform such duties as may be assigned to them by the Lieutenant-Governor in Council or by the Minister. R.S.O. 1897, c. 37, ss. 3, 4, 6-10.

6.—(1) The Minister shall have the management of the Department, shall oversee and direct the officers and servants Powers and duties of the Minister. thereof and may suspend from duty any officer or servant. R.S.O. 1897, c. 37, s. 5.

(2) The Minister may enter into any contract or agree- Contracts. ment that he may deem advisable in carrying out the provisions of this Act: but no contract or agreement shall be binding upon the Crown or be deemed to be the act of the Minister unless signed by him and sealed with the seal of the Department. R.S.O. 1897, c. 37, s. 11.

(3) The Minister shall, by public advertisement, invite Tenders to be invited for public works. tenders for the construction or repair of all public works, except in cases of pressing emergency, where delay would be injurious to the public interest, or where, from the nature Exception. of the work, it can be more expeditiously or economically executed by the officers and servants of the Department or by day labour. R.S.O. 1897, c. 37, s. 23.

(4) Where a public work is being carried out by contract, Security to be taken from contractors. the Minister shall take reasonable care that security be given to and in the name of His Majesty for the due performance of the work within the amount and time specified for its completion and in all cases where the Minister deems it Provision when lowest tender is not accepted. inexpedient to let the work to the lowest bidder, he shall report the same and obtain the authority of the Lieutenant-Governor in Council before passing by a lower tender; but no sum of money shall be paid to a contractor, nor shall any work be commenced on any contract until the contract has been signed by all the parties thereto, nor until the requisite security has been given. R.S.O. 1897, c. 37, s. 24.

(5) The Minister may require any account sent in by any person employed by the Department to be attested on oath. R.S.O. 1897, c. 37, s. 20.

Minister may
hold enquiry
on oath.

(6) The Minister may send for and examine on oath all such persons as he may deem necessary touching any matter upon which his action is or may be required, and may cause such persons to bring with them such papers, plans, books, documents and things as it may be necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements, and every such person shall attend at the summons of the Minister after due notice, and in default shall incur a penalty not exceeding twenty dollars recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 37, s. 21.

Rev. Stat.
c. 90.

Annual report
of Minister.

(7) The Minister shall submit to the Lieutenant-Governor an annual report of all the works under the control of the Department, showing the state of each work, the amounts expended in respect thereof, and such further information as may be requisite to enable the Assembly to judge of the work of the Department.

(8) Such report shall be laid before the Assembly within twenty-one days after the commencement of the next Session. R.S.O. 1897, c. 37, s. 22.

Payments
under this
Act.

7. Where any payment is to be made by the Minister under the authority of this Act it shall be payable out of such moneys as may be appropriated by the Legislature for that purpose, and not otherwise, and the Minister shall not be personally liable therefor, or for any proceedings had or taken by virtue of this Act. R.S.O. 1897, c. 37, s. 37.

What pro-
perty, etc., to
be under con-
trol of Depart-
ment.

8. All public works constructed or completed at the expense of the Province, all land, streams, watercourses and property, real or personal, acquired for the use of public works;

- (a) All canals, locks, dams, hydraulic works, harbours, piers and other works for improving the navigation of any water;
- (b) All slides, dams, piers, booms and other works for facilitating the transmission of timber;
- (c) All hydraulic powers created by the construction of any public works;
- (d) All roads and bridges, all public buildings, all railways and rolling stock thereon, all vessels, dredges, scows, tools, implements and machinery for the improvement of navigation, all drains and drainage works and all property acquired,

constructed, repaired, equipped, maintained or improved at the expense of the Province, and not under the control of the Government of Canada,

shall unless otherwise provided by law be and remain vested in His Majesty and under the control of the Department. R.S.O. 1897, c. 37, s. 14.

9.—(1) Any property, real or personal, no longer required for the use of any public work, may be sold, ^{Property not required may be sold.} leased or disposed of under the authority of the Lieutenant-Governor in Council.

(2) Such property shall be so sold, leased or disposed of by tender or public auction, except that a lease for a term not exceeding five years may be made without tender or public auction. R.S.O. 1897, c. 37, s. 16.

10. Contracts respecting any public works or property, real or personal, under the control of the Department, entered into by the Minister, or by any other person duly authorized to enter into the same, shall enure to the benefit of His Majesty, and may be enforced as if entered into with His Majesty under the authority of this Act. R.S.O. 1897, c. 37, s. 17. ^{Contracts to enure to use of His Majesty.}

11. All actions and other proceedings for the enforcement of any contract, for the recovery of damages for any tort or breach of contract, or for the trial of any right, in respect of property, real or personal, under the control of the Department, shall be instituted in the name of the Attorney-General for Ontario. R.S.O. 1897, c. 37, s. 12. ^{Actions for enforcing contracts, etc.}

12. The Minister may require any person having the possession of any map, plan, specification, estimate, report or other paper, book, drawing, instrument, model, contract, document, record or thing relating to any public work, and not being private property, to deliver the same without delay to the Department. R.S.O. 1897, c. 37, s. 13. ^{Possession may be required of maps, etc., relating to Public Works.}

POWER TO TAKE LAND, ETC.

13. The Minister may himself, or by his engineers, superintendents, agents, workmen, or servants, for any purpose relative to the use, construction, maintenance or repair of a public work, or for obtaining better access thereto and without the consent of the owner:— ^{Power to enter on and use land.}

(a) Enter into and upon any land to whomsoever be-

longing, and survey and take levels of the same, and make such borings, or sink such trial pits as he deems necessary;

(b) Enter upon, take and use any land, stream, water or watercourse;

(c) Enter with workmen, carts, carriages and horses, upon any land, and deposit thereon soil, earth, gravel, trees, bushes, logs, poles, brushwood or other material found on the land, or for the purpose of digging up, quarrying and carrying away earth, stones, gravel or other material, and cutting down and carrying away trees, bushes, logs, poles and brushwood therefrom;

(d) Make and use all such temporary roads to and from such timber, stones, clay, gravel, sand or gravel pits as are required by him for the convenient passing to and from the work during its construction or repair;

(e) Alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, railway, road, street, or way, or raise or sink the level of the same in order to carry them over or under, on the level of or by the side of the public work, as he thinks proper; but before discontinuing or altering any public road or any portion thereof, he shall substitute another convenient railway or road in lieu thereof; and the land theretofore used for the railway or road, or part of a railway or road so discontinued shall belong to the Crown and may be disposed of as to the Minister may seem proper; and

(f) Divert or alter the position of any water-pipe, gas-pipe, sewer, drain, or any telegraph, telephone or electric light wire or pole. *See R.S.C. 1906, c. 143, s. 3 and R.S.O. 1897, c. 37, s. 49.*

Power to
acquire land.

14. The Minister may for and in the name of His Majesty purchase or acquire and, subject as hereinafter mentioned, may without the consent of the owner thereof enter upon, take and expropriate any land which he may deem necessary for

(a) The public purposes of the Province, or

(b) The use or purposes of any Department of the Government thereof.

15. Where it is deemed necessary, in the building, maintaining or repairing of a public work, to take down or remove any wall or fence of any owner of land adjoining the public work, or to construct any ditch or drain for carrying off water, such wall or fence shall be replaced as soon as the necessity which caused its taking down or removal has ceased; and after the same has been so replaced, or when such ditch or drain is completed, the owner shall maintain such wall or fence, ditch or drain to the same extent as he might be by law required to do, if such wall or fence had not been so taken down or removed, or such ditch or drain had always existed. *See R.S.C. 1906, c. 143, s. 4.*

Walls, fence, etc., to be restored.

16.—(1) Where any gravel, stone, earth, sand or water is taken at a distance from the public work, the Minister may lay down all necessary sidings, water pipes or conduits, or tracks in, over or upon any land intervening between the public work and the land on which such material or water is found, whatever the distance may be; and all the provisions of this Act, except such as relate to the filing of plans and descriptions, shall apply to obtaining the right of way from the public work to the land on which such materials are situate; and such right may be acquired for a term of years, or permanently as the Minister may think proper.

Sidings, water pipes and tracks.

(2) The powers conferred by this section may be exercised, after the public work is constructed, for the purpose of repairing and maintaining the same. *See R.S.C. 1906, c. 143, s. 5.*

17.—(1) The Minister may employ an Ontario land surveyor or an engineer to make any survey or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by His Majesty for a public work.

Boundaries and plans to be established and made by surveyors or engineers.

(2) The boundaries of such properties may be permanently established by means of proper stone or iron monuments planted by the surveyor or engineer.

(3) Such surveys, boundaries, plans and descriptions made, established or furnished by an engineer shall have the same effect to all intents and purposes as if the operations pertaining thereto or connected therewith had been performed and such boundaries had been established and such monuments planted by an Ontario land surveyor.

(4) Such boundaries shall be held to be the true and unalterable boundaries of such property, if,—

(a) They are so established, and such monuments of iron or stone so planted, after due notice of the intention to establish and plant the same has been given in writing to the proprietors of the land thereby affected; and,

(b) A written description of such boundaries is approved and signed in the presence of two witnesses by such engineer or surveyor on behalf of the Minister and by the person concerned; or, in case of the refusal of any proprietor to approve or to sign such description, such refusal is recorded in such description; and,

(c) Such boundary marks or monuments are planted in the presence of at least one witness who shall sign such description.

(5) It shall not be incumbent on the Minister or those acting for him to have boundaries established with the formalities in this section mentioned, but it may be resorted to whenever the Minister deems it necessary. *See R.S.C. 1906, c. 143, s. 7.*

EXPROPRIATION.

Land taken
to be laid off
by metes and
bounds.

18. Where the Minister desires to expropriate land under the power conferred by this Act he shall deposit in the proper registry office a plan and description of the land signed by himself or by the deputy Minister or by the secretary of the Department, or by the superintendent of the public work, or by an engineer of the Department, or by an Ontario land surveyor, and such land shall thereupon become and be vested in the Crown.

(2) Where the land is required for a limited time only, or only a limited estate, right or interest therein is required, the plan and description so deposited shall indicate, by appropriate words written or printed thereon, that the land is taken for such limited time only, or that only such limited estate, right or interest therein is taken, and by the deposit in such case, the right of possession for such limited time, or such limited estate, right or interest, shall become and be vested in the Crown. *See R.S.C. 1906, c. 143, s. 8.*

Correcting
plans and
descriptions.

(3) In case of any omission, misstatement or erroneous description in any plan or description, a correct plan and description may be deposited with like effect. *See R.S.C. 1906, c. 143, s. 9.*

(4) A plan and description of any land at any time in the occupation or possession of the Crown and used for the purposes of any public work, may be deposited at any time, in like manner and with like effect as herein provided, saving always the lawful claims to compensation of any person interested therein. *See R.S.C. 1906, c. 143, s. 10.*

Plans and descriptions of land occupied by the Crown.

(5) In all cases, when any such plan and description, purporting to be signed by the deputy Minister, or by the superintendent of the public work, or by an engineer of the Department, or by an Ontario land surveyor, is so deposited the same shall be deemed to have been deposited by the direction and authority of the Minister, and as indicating that in his judgment the land therein described is necessary for the purposes of the public work; and the plan and description shall not be called in question except by the Minister, or by some person acting for him or for the Crown. *See R.S.C. 1906, c. 143, s. 11.*

Plans and descriptions to be deemed deposited by direction of Minister.

19. Where land appropriated for a public work is Crown land, under the control of the Government of Ontario, a plan of such land shall be deposited with the Department of Lands, Forests and Mines. *See R.S.C. 1906, c. 143, s. 14.*

When land of Crown is taken.

AGREEMENTS AND CONVEYANCES.

20.—(1) Any tenant in tail or for life, guardian, tutor, curator, executor, administrator, committee or person, not only for and on behalf of himself, his heirs and assigns, but also for and on behalf of those whom he represents, whether married women, infants, issue unborn, lunatics, idiots, or other persons, seized, possessed or interested in any land or other property, may contract and agree with the Minister for the sale of the whole or any part thereof, and may convey the same to the Crown; and may also contract and agree with the Minister as to the amount of compensation to be paid for any such land or property, or for damages occasioned thereto, and may also act for and on behalf of those whom he represents in any proceeding for determining the compensation to be paid under the provisions of this Act. *See R.S.C. 1906, c. 143, s. 15.*

Contracts by tenants in tail, executors and others.

(2) Where there is no guardian or other person to represent a person under disability, the Judge may, after due notice to the persons interested, appoint a guardian or person to represent for any of the purposes mentioned in subsection 1 the person under disability. *See R.S.C. 1906, c. 143, s. 16.*

Judge may appoint person to represent person under disability.

WARRANT FOR POSSESSION.

21.—(1) If any resistance or opposition is made by any

Judge may issue warrant of possession.

person to the Minister, or to any person acting for him, entering upon and taking possession of the land or exercising any power in respect thereof, the Judge may, on proof of the execution of a conveyance of such land to His Majesty, or agreement therefor, or of the depositing in the proper registry office of a plan and description thereof as aforesaid, and after notice to show cause given in such manner as he prescribes, issue his warrant to the sheriff of the county or district within which such land is situate directing him to put down such resistance or opposition, and to put the Minister, or some person acting for him, in possession thereof, or take such steps as may be necessary to enable him to exercise such power.

(2) The sheriff shall take with him sufficient assistance for such purpose, and shall put down such resistance and opposition, and shall put the Minister, or such person acting for him, in possession thereof; and shall forthwith make return to the Court of such warrant, and of the manner in which he executed the same. *See R.S.C. 1906, s. 143, s. 21.*

COMPENSATION FOR LAND TAKEN OR INJURED.

Compensation
to be made
to the
owner.

22. The Minister shall make to the owner of land entered upon, taken or used by him or injuriously affected by the exercise of any of the powers conferred by this Act due compensation for any damages necessarily resulting from the exercise of such powers, beyond any advantage which the owner may derive from the contemplated work; and any claim for such compensation not mutually agreed upon, shall be determined as hereinafter provided.

Notice to be
given to
owner within
60 days
from registra-
tion of plan.

23. Where land has been entered upon, taken or used by the Minister under the compulsory powers conferred by this Act the Minister shall, within sixty days after the registration of the plan and description of the land in the registry office, give notice to the owner,

- (a) If the owner is known and he is a resident of the Province, by serving upon or by mailing by registered post addressed to him at his last known place of abode a notice describing the land taken or the right or easement exercised or intended to be exercised in, upon or over the land, and the nature of the work to be done and the date of the registration of the plan and description and stating that every person having any claim to compensation, must file the same in the office of the Minister within six months after such registration, or, in the case of land injuriously af-

fect, within six months after the injury complained of, or in the case of a continuing injury within one year from the time when the injury began or became known to him, and

- (b) By the publication of a similar notice once a week for at least three weeks in some newspaper having a general circulation in the county or district in which the land affected is situate.
New.

24. When the Minister has exercised any of the compulsory powers conferred by this Act other than the power to expropriate land, he shall within 60 days after the exercise of such power, give and publish a notice similar to and in the like manner as is provided for in section 23, and the provisions of section 27 as to claims to and for the determination of the compensation shall apply.

Compensation where land not expropriated.

25. Where the notice provided for by the next two preceding sections has been given, no claim of any kind for compensation in respect of land taken, used or injuriously affected in the exercise of the powers conferred by this Act shall be referred for determination under the provisions of this Act unless the claim and the particulars thereof have been filed with the secretary of the department in the case of land taken within six months after the registration of the plan or in the case of land injuriously affected within six months after the injury complained of, or in the case of a continuing injury within one year from the time when the injury began or became known to the claimant.

Claim for compensation to be made within 6 months of registration of plan.

26. If the Minister is of opinion that he can obtain the whole of any lot or parcel of land of which any part may be expropriated by him at a more reasonable price or to greater advantage than by acquiring such part only he may expropriate the whole of such lot or parcel and also a right of way thereto, if the same is separated from the public work, and may afterwards sell and convey the same or any part thereof as he deems expedient.

Power to take whole lot when part only required.

27. The Minister and the owner may agree upon the amount of the compensation, or either party may give notice in writing to the other that he requires the amount of such compensation to be determined by arbitration under the provisions of this Act.

Notice to determine amount of compensation.

28. Subject to the provisions of section 25, the Judge upon application of the Minister or of the owner, may appoint in writing a time and place at which he will determine the amount of such compensation and may give such

Judge to appoint time and place for determination

directions for the service of the appointment and as to the persons to be served as he shall deem proper.

Minister may refer claim to Ontario Railway and Municipal Board.

29. Where the Minister gives notice to the owner either before or after the service of the appointment upon him, that he desires that the compensation shall be determined by the Ontario Railway and Municipal Board instead of by the Judge, the Chairman of the Board shall give the appointment upon the like application and shall have power to give like directions as the Judge might have given under the next preceding section and the proceedings shall thereafter be taken before the Board.

Proceedings before Judge. 9 Edw. VII. c. 85.

30. Save as otherwise provided by this Act, the provisions of *The Arbitration Act* shall apply to the proceedings under this Act before the Judge.

Proceedings before Board. 6 Edw. VII. c. 81.

31. The provisions of *The Ontario Railway and Municipal Board Act, 1906*, shall apply to proceedings taken before that Board under this Act.

Appeal to Court of Appeal.

32.—(1) Where the amount of the claim exceeds \$500, the Minister or the claimant may by leave of the Court of Appeal, appeal to that Court from any determination or order of the Judge or of the Board under this Act as to compensation.

(2) The leave may be granted on such terms as to the appellant giving security for costs and otherwise as the Court may deem just.

(3) The practice and procedure as to the appeal and incidental thereto shall be the same *mutatis mutandis* as upon an appeal from the County Court.

(4) The decision of the Court of Appeal shall be final.

(5) Section 43 of *The Ontario Railway and Municipal Board Act, 1906*, shall not apply to any appeal under this section.

Compensation to stand instead of land taken or injured.

33. The compensation agreed upon or adjudged for any land or property acquired, taken, or used in or injuriously affected by the exercise of any of the powers conferred by this Act shall stand in the stead of such land or property, and any claim to or encumbrance thereon shall, as respects the Crown, be converted into a claim to or upon such compensation, and shall no longer affect such land or property so acquired, taken or used. *See R.S.C. 1906, c. 143, s. 22.*

34.—(1) Where at any time before the compensation has been actually ascertained or determined, land taken for a public work, or any part thereof, is found to be unnecessary for the purposes of such public work, or if it is found that a more limited estate or interest therein only is required, the Minister may, by writing under his hand, registered in the proper registry office, declare that the land or such part thereof is not required and is abandoned by the Crown, or that it is intended to retain only such limited estate or interest as is mentioned in such writing, and thereupon

Right to
abandon land
taken.

(a) The land declared to be abandoned shall revert in the person from whom it was taken or in those entitled to claim under him, or

(b) In the event of a limited estate or interest therein being retained by the Crown, the land shall so revert subject to the estate or interest so retained.

(2) The fact of such abandonment or reversion shall be taken into account, in connection with all the other circumstances of the case, in determining the amount to be paid to any person claiming compensation. *See R.S.C. 1906, c. 143, s. 23.*

35. If the compensation agreed upon or adjudged does not exceed one hundred dollars, it may be paid to the person who under this Act may lawfully convey the land or property or agree as to the compensation, saving always the rights of any other person to such compensation as against the person receiving the same. *See R.S.C. 1906, c. 143, s. 24. See R.S.O. 1897, c. 207, s. 15.*

Payment of
compensation
up to \$100.

36.—(1) In the cases provided for in section 20 the Minister shall, and, in all other cases if for any reason the Minister deems it advisable, he may pay the compensation into the office of the Accountant of the Supreme Court, with interest thereon at 5 per cent. for six months.

Payment of
compensation
into Court.

(2) A notice in such form and for such time as the High Court or a Judge thereof may direct shall be published in such newspaper as the Court or Judge may order, stating that the land is purchased, acquired or taken by the Crown under the provisions of this Act, and calling upon all persons entitled to the land or to any part thereof to file their claims to the compensation or any part thereof, and all such claims shall be adjudicated upon by the Court or Judge, and the Court or Judge shall make such order for the distribution, payment or investment of the compensation, and for securing the rights of all parties interested as to right and justice and to law appertains.

Proceedings
after pay-
ment into
Court.

(3) If such order of distribution is obtained in less than six months after the payment of the compensation into Court, the Court or Judge may direct a proportionate part of the interest to be returned to the Minister, and if it is not obtained until after six months have expired the Court or Judge may order the Minister to pay interest for such further period as may be deemed just.

(4) Where unborn issue or an unascertained person or class are interested in the compensation, the Court or Judge may appoint such person as may be deemed proper to represent or act for them, and any order made shall be binding on them.

Particulars of estate to be given on demand.

37. Every person who has any estate or interest in any land or property acquired, taken or used in or injuriously affected by the exercise of any of the powers conferred by this Act, or who represents any such person, shall, upon demand made therefor by or on behalf of the Minister, furnish to the Minister a true statement showing the particulars of such estate and interest and of every charge, lien or encumbrance to which the same is subject, and of the claim made by such person in respect of such estate or interest. *See* R.S.C. 1906, c. 143, s. 25.

Reparation by Crown may be ordered.

38. If the injury to any land or property alleged to be injuriously affected by the exercise of any of the powers conferred by this Act may be removed wholly or in part by any alteration in, or addition to, any public work, or by the construction of any additional work, or by the abandonment of any part of the land taken from the claimant, or by the grant to him of any land or easement, and if the Crown before an award is made undertakes to make such alteration or addition, or to construct such additional work or to abandon such portion of the land taken, or to grant such land or easement, the damages shall be determined in view of such undertaking, and the Judge or the Board, as the case may be, shall declare that, in addition to any damages awarded, the claimant is entitled to have such alteration or addition made, or such additional work constructed, or such part of the land abandoned, or such grant made to him. *See* R.S.C. 1906, c. 143, s. 30.

INTEREST.

Interest on compensation money.

39.—(1) Interest at the rate of five per centum per annum may be allowed on the compensation from the time when the land or property was taken, used or injuriously affected; but no person to whom has been tendered a sum equal to or greater than the compensation shall be allowed interest thereon for any time subsequent to the date of the tender.

(2) If the Judge or the Board is of opinion that the delay in determining the compensation is attributable wholly or in part to any person entitled to the compensation or any part of it, or that he has not, upon demand, furnished to the Minister within a reasonable time a true statement of the particulars of his claim, the Judge or the Board may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow the same at such rate less than five per centum per annum as may appear just. *See R.S.C., c. 143, s. 31.*

CLAIM UNDER CONTRACT MAY BE REFERRED TO ARBITRATION.

40.—(1) If any person has a claim arising out of, or connected with, the execution or fulfilment, or in respect of deductions made for the non-execution or non-fulfilment of a contract for the execution of any public work entered into with the Minister, either in the name of His Majesty, or in any other manner, the person may give notice in writing of his claim to the Minister, stating the particulars thereof, and how the same has arisen. *R.S.O. 1897, c. 37, s. 62.*

(Claims arising under contracts be made.)

(2) The claim may be referred by the Minister to the Board for determination under the provisions of this Act, but no claim shall be referred to or be entertained unless within six months from the date of the completion of the contract or from the date of the last payment made on account thereof full particulars of the claim have been filed with the secretary of the Department. *R.S.O. 1897, c. 37, s. 65.*

And may be referred by Minister for determination.

(3) No claim shall be so referred where by the terms of the contract the determination of any matters of difference arising out of or connected with the same are to be decided by the Minister or by some person named in the contract. *R.S.O. 1897, c. 37, s. 64.*

When reference not allowed.

PAYMENT OF COMPENSATION OR COSTS.

41. The Treasurer of Ontario may pay to any person, out of any unappropriated moneys forming part of the Consolidated Revenue Fund, any sum to which, under the provisions of this Act, he is entitled as compensation or for costs. *See R.S.C. 1906, c. 143, s. 32.*

Payment of compensation and costs.

LANDS VESTED IN HIS MAJESTY.

42.—(1) All lands, streams, water-courses and property acquired for any public work shall be vested in the Crown and, when not required for the public work, may be sold, or disposed of.

Land taken to be vested in Crown and may be sold or disposed of.

leased or otherwise disposed of under the authority of the Lieutenant-Governor in Council.

(2) All hydraulic powers created by the construction of any public work, or by the expenditure of public money thereon, shall be vested in the Crown, and any part not required for the public work may be sold, leased or otherwise disposed of under the authority of the Lieutenant-Governor in Council. *See R.S.C. 1906, c. 143, s. 34.*

Power to employ engineers, etc., to examine land for drainage, etc.

43. The Minister may employ engineers and surveyors to make examinations, surveys and levels of any swamp or bog land, or land occasionally or permanently flooded with water, and such engineers and surveyors shall be under the direction of the Department, and shall report to the Minister on the best means of draining or preventing the flooding of the land, the cost of the same, the quantity and quality of land proposed to be drained or saved from flooding, with an estimate of the improved value of the land. *R.S.O. 1897, c. 37, s. 51.*

Report to the Lieutenant-Governor thereon.

44. The Minister shall submit to the Lieutenant-Governor, in his annual report to be laid before the Assembly, a statement of the results of such examination, surveys and levels, and an estimate of the cost of reclaiming the lands, so as to render them available for cultivation, with his recommendation respecting the same. *R.S.O. 1897, c. 37, s. 52.*

Power to make certain contracts.

45. The Minister may make contracts, in the manner hereinbefore prescribed, for the construction and repair of drains, bridges, roads, dams, dykes, slides and other works which he may deem necessary or proper to prevent the flooding of, or to carry off the water from, any such land, and to render the same available for cultivation. *R.S.O. 1897, c. 37, s. 53.*

Power to remove obstructions on report of engineer.

46.—(1) Where it has been ascertained, on the report of an engineer, that there exists, or is being or has been constructed, across a river, stream or water-course, any mill-dam, embankment or obstruction which impedes, or which, in the opinion of the engineer, will impede the free discharge of the water from such swamp, bog or flooded land, the Minister may stop the construction thereof, or cause the same to be removed, or a slide to be constructed, as in his opinion may be most advisable; and if the owner of such mill-dam, embankment or obstruction, or any other person suffers damage in consequence of the stopping of its construction, or of its removal, or of the construction of any

slide under the provisions of this section, he shall be entitled to compensation to be agreed upon or determined under the provisions of this Act, due regard being had to the previous rightful or wrongful action of the owner in constructing the mill-dam, embankment or obstruction; and the compensation shall be paid within six months after the same has been agreed on or determined. R.S.O. 1897, c. 37, s. 54.

Owners, etc.
to receive
compensation.

(2) Every such slide shall be under the control of the Department; and the Minister, his engineers and agents, shall be entitled to free access to the same at all reasonable times, and for all reasonable purposes, including the regulating of the discharge of water over the slide, and its repair. R.S.O. 1897, c. 37, s. 55.

Slides to be
under control
of Department,
etc.

47. Nothing in this Act shall give authority to the Minister to incur any expenditure not previously sanctioned by the Legislature, except for such repairs and alterations as the immediate necessities of the public service demands. R.S.O. 1897, c. 37, s. 57.

Expenditure
to be sanctioned
by
Legislature.

48. The provisions of *The Ontario Drainage Act* shall not apply to expenditure under sections 43 to 46 upon lands in a provisional judicial district.

Rev. Stat.
1887, c. 36
not to apply
to certain
expenditure.

49. This Act shall apply to public works constructed, operated or maintained by any commission appointed by or under the authority of the Legislature of Ontario and to every such commission; and the like powers and duties as are by this Act imposed or conferred upon the Minister may be exercised and shall be performed by such commission in respect of matters entrusted to it; and in the application of this Act thereto where the word "Minister" or the word "Department" occurs, it shall mean such commission.

Application
of Act to
Commission
appointed by
Legislature.

50. Chapter 37 of the Revised Statutes and all amendments thereto are repealed.

Repeal.

No. 158.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting the Public Works of
Ontario.

First Reading 27th January, 1910.

Mr. REAUME.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act respecting the Department
of Agriculture.

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of
Ontario, enacts as follows:—

1. This Act may be cited as "*The Department of Agriculture Act.*" Short title.

2. In this Act

Interpretation.

(a) "Department" shall mean the Department of Agriculture. "Department"

(b) "Minister" shall mean the Minister of Agriculture. "Minister."

3. The Department of the Government of Ontario known as the Department of Agriculture is continued and shall be presided over by a Member of the Executive Council who shall be known as the Minister of Agriculture. Department of Agriculture continued.

4. The Lieutenant-Governor in Council may appoint a Deputy Minister of Agriculture and such other officers and clerks as he may deem necessary for the proper conduct of the business of the Department. Deputy Minister.

5. Subject to the provisions of the *Act respecting the Executive Council*, the Minister shall have the direction and control of Powers of Minister.

8 Edw. vii., c. 6.

(a) The administration of the laws relating to agriculture in all its branches;

(b) The collection of statistics and the management of the Bureau of Industries;

(c) The Ontario Agricultural College;

(d) The Ontario Veterinary College;

(e) Farm Forestry;

(f) Immigration and colonization;

(g) Inspection of factories and shops;

(h) The administration of statutes respecting stationary engineers.

Duties and powers which were possessed by Commissioner of Agriculture.

And shall have and perform such other functions, duties and powers as may be assigned or transferred to him by the Lieutenant-Governor in Council. R.S.O. 1897, c. 42, s. 1.

Expenditure of appropriation.

6. Where an appropriation is made by the Legislature for or in respect of any matter under the management, direction or control of the Department of Agriculture or of the Minister, the same shall be expended by the Minister in accordance with the provisions of the Act regulating the same, or if there are no such provisions, in accordance with the direction of the Lieutenant-Governor in Council. 9 Edw. VII., c. 26, s. 29.

Power to acquire land.

7. When authorized by the Lieutenant-Governor in Council, the Minister may acquire by purchase, lease or otherwise land or buildings for the purposes of the Department.

Annual report by Minister.

8. The Minister in each year shall submit to the Lieutenant-Governor a report of the proceedings of his Department during the next preceding year, and such report shall be laid before the Legislative Assembly forthwith, or, if the Legislature is not at the time in session, then within thirty days after the commencement of the next session thereof.

Bureau to be under direction of Minister of Agriculture.

9. There shall be attached to the Department a Bureau, to be styled "The Bureau of Industries," for collecting, tabulating and publishing industrial information for public purposes. R.S.O. 1897, c. 42, s. 2.

BUREAU OF INDUSTRIES.

Appointment of secretary and other officers.

10. The Lieutenant-Governor in Council may appoint a Secretary of the Bureau, and may also appoint such other

officers as may be necessary for the proper conduct of the Bureau. R.S.O. 1897, c. 42, s. 3.

11. It shall be the duty of the Minister to institute inquiries and collect useful facts relating to the agricultural and other industrial interests of Ontario, and to publish the same in such manner as he deems best adapted to promote improvement within Ontario; and to procure and publish early information relating to the supply of grain, bread-stuffs and live stock in the other Provinces of the Dominion, in Great Britain, and in the United States and other foreign countries in which the Province finds a market for its surplus products, and as to the demand therefor; and the Minister shall, on or before the first day of May in each year, cause to be published and distributed for the use of the members of the Assembly, the general report and the tabular abstract for the next preceding year, made by the Secretary to the Minister, as provided by section 13. R.S.O. 1897, c. 42, s. 4.

Useful facts relating to agriculture, etc., to be collected and published.

12. It shall be the duty of the Secretary, under the instructions of the Minister, to conduct all correspondence of the Bureau; to send to the proper officers and persons of whom such service is required the schedules with instructions approved by the Minister, for the collection of facts and information relating to agriculture and other industries in Ontario; to receive, abstract and tabulate the information collected and obtained, and to publish the same from time to time during the growing season; to prepare at the close of each year a general report to the Minister, including a tabular abstract of facts relating to land, trade, government, population and other subjects compiled annually from the departmental records of Ontario and from other available records; and generally to perform all work within the sphere of the Bureau as may be directed by the Minister. R.S.O. 1897, c. 42, s. 5.

Duties of secretary.

13. The Minister, with the approval of the Lieutenant-Governor in Council, may make such arrangements as he deems expedient with the Government of the Dominion for the collection and transmission of information on the agricultural, manufacturing and other interests of Ontario, or for obtaining for the use of Ontario such information as may have been collected by the Department of Agriculture of Canada. R.S.O. 1897, c. 42, s. 6.

Arrangements with Government of Dominion.

14. Each collector and officer employed in collecting data for the Bureau of Industries shall be entitled to receive one copy of the publications and reports of the Bureau. R.S.O. 1897, c. 42, s. 7.

Certain persons entitled to copy of reports.

Officers of certain societies and others to answer all official communications.
Rev. Stat.
c. 43.

15.—(1) The officers of all societies and associations organized under *The Agriculture and Arts Act*, and of all municipal councils, school boards, and public institutions, and all public officers of Ontario, shall promptly answer all official communications from the Bureau, shall from time to time collect and tabulate facts according to instructions to be furnished them, shall make diligent efforts to supply correct information on all questions submitted to them, and generally shall act as far as practicable upon the recommendations of the Minister.

(2) Any officer of any such society, association, council, school board or public institution making a false return of information, or refusing or wilfully neglecting to answer any question, or to fill up, tabulate and return any official schedule according to the instructions furnished, and within the prescribed times, or to furnish information relating to the industries of Ontario, when required so to do either by the Minister or by the Secretary of the Bureau, shall for every such offence incur a penalty of \$40. R.S.O. 1897, c. 42, s. 8.

When returns are not duly made to Department by municipalities.
3 Edw. vii.
c. 19.

16. In case any of the returns under the preceding sections are not made as required, or in case any of the municipal returns to the Bureau of Industries required under *The Consolidated Municipal Act, 1903*, or amendments thereto are not made, or in case the returns so made are not satisfactory to the Minister, the Minister may direct some competent person to examine the books and records of the office or person designated by statute to report thereon and to make the return required, and the person so directed by the Minister shall, upon the production of his written instructions from the Minister, have full and free access to all the books and records necessary for the making up of such return, and any person refusing to allow the person so directed to have full and free access to such books and records shall for every such offence incur a penalty of \$40. R.S.O. 1897, c. 42, s. 9.

Recovery of penalties.
Rev. stat., c. 90.

17. The penalties provided by this Act shall be recoverable under *The Ontario Summary Convictions Act*.

Repeal.

18. Chapter 42 of the Revised Statutes of Ontario, 1897, and all amendments thereto are hereby repealed.

No. 159.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting the Department
of Agriculture.

First Reading 3rd day of February, 1910

MR. DUFF.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Judicature Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsections 1 and 2 of section 5, and section 19 of *The Judicature Act* as enacted by sections 1 and 2 of the Act passed in the ninth year of His Majesty's reign, intituled *An Act to amend the Judicature Act*, are repealed and the following substituted therefor:—

⁹ Edw. VII,
c. 27, s. 2, re-
pealed.

5.—(1) Where a Judge of the Court of Appeal or of the High Court resigns his office or is appointed to any other Court, he may at any time within eight weeks after such resignation or appointment give judgment in any cause, action or matter tried by or heard before him before such resignation or appointment, as if he had not so resigned or been appointed.

Judge may
give judgment
within eight
weeks after
resignation
or promotion.

(2) Where such Judge has heard a cause, action or matter jointly with other Judges in a Divisional Court or in the Court of Appeal he may at any time within the period mentioned in subsection 1 take part in the giving of judgment therein by such Court as if he were still a member thereof.

May take
part in
judgment of
Court.

(3) Where such Judge does not take part in the giving of judgment or where a Judge by whom a cause, action or matter has been heard in a Divisional Court or in the Court of Appeal is absent from illness or any other cause or dies, the remaining judges of the Court, or, where the action, cause or matter is in the Court of Appeal and there is a difference of opinion a majority of them may give judgment as if the Judge who has so resigned or been appointed or is absent or dead were still a member of the said Court and taking part in the judgment.

When major-
ity of Court
may give
judgment.

No. 160.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Judicature Act.

First Reading 14th day of February, 1910

Mr. Fox.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Act respecting the Property of Religious Institutions.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Act respecting the Property of Religious Institutions* as amended by section 2 of *The Statute Law Amendment Act, 1909*, is further amended by adding thereto the following sections:—

14a. Where land is held by trustees for the use of a congregation or religious body and a separate congregation or religious body is formed therefrom, the trustees for the time being may convey to the trustees of such separate congregation or religious body such part of the land as is no longer required for the use of the congregation or religious body for the use of which it is so held, but no such conveyance shall be made unless or until the assent thereto of such last mentioned congregation or religious body has been first obtained, or the conveyance is sanctioned in the manner provided by section 15.

14b. Every conveyance heretofore executed to any such separate congregation or religious body and so assented to or sanctioned shall be as valid and binding as if the next preceding section had been in force at the time such assent or sanction was given and such conveyance was executed, but this section shall not apply to a conveyance which is in question in a pending action or has been determined to be invalid or affect any adverse right or title acquired before the passing of this Act.

No. 161.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend the Act respecting the
Property of Religious Institutions.

First Reading 14th day of February, 1910

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

The Statute Law Amendment Act, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 2 of section 15 (a) added to *The Act respecting Coroners* by section 29 of the *Statute Law Amendment Act, 1908*, passed in the 8th year of the reign of His Majesty, Chapter 33, is repealed and the following substituted therefor:

Rev. Stat.
c. 97, s. 15,
subs. 2
amended.

(2) The Coroner shall certify what he deems a reasonable allowance for the fees of the stenographer, and the same shall be paid on the order of the Coroner in the same way as is provided by section 14 of this Act in regard to medical practitioners.

Coroner shall
certify to
stenograph-
er's fees.

2. Subsection 1 of section 13 of *The Line Fences Act*, chapter 284, of the Revised Statutes of Ontario, 1897, is amended by inserting after the word "premises" in the first line the words "or hears the appeal at a place other than the County town."

Rev. Stat.
c. 284, s. 13,
subs. 1
amended.

3. Section 21 of *The Act respecting Burlington Beach*, passed in the 7th year of His Majesty's reign, chapter 22, is hereby repealed.

7 Edw. VII.,
c. 22, s. 21
repealed.

4. Section 54 of *The Act to incorporate the Bracebridge and Trading Lake Railway Company*, as enacted by section 46 of the *Statute Law Amendment Act, 1907*, passed in the 7th year of the reign of His Majesty, chapter 23, is repealed and the following substituted therefor:

7 Edw. VII.,
c. 23, s. 54
repealed.

(54) The railway shall be commenced on or before the 1st day of May, 1911, and finally completed within five years thereafter.

Extension of
time for
commencement
and com-
pletion of
Bracebridge
and Trading
Lake Ry.

Local Registrars, etc., may appoint deputies.

5.—(1) All Local Registrars, Deputy Clerks of the Crown, County Court Clerks and Surrogate Registrars may by writing under their respective hands and seals of office appoint a deputy or deputies, who may perform all duties in the same manner and to the like effect as if done by the officer making the appointment. Any such officer may remove his deputy and appoint another in his place whenever he thinks it necessary.

Appointment to be approved by County Judge.

(2) No such appointment shall be made without the approval in writing of the Judge of the County or District Court.

9 Edw. VII., c. 87, ss. 3 and 4 amended.

6. Sections 3 and 4 of *The Act to regulate the means of Egress from Public Buildings*, passed in the 9th year of His Majesty's reign, chapter 87, is amended by striking out the words "involving the use of a combustible film" where they occur in the said sections.

Cinematograph shows.

9 Edw. VII., c. 83, s. 2 amended.

7. Section 2 of *The Private Detectives Act*, passed in the 9th year of His Majesty's reign, chaptered 83, is repealed, and the following substituted therefor:

Private detectives to be licensed.

2. No person shall engage in or advertise the business of a private detective, or indicate upon any letter, document or paper that he is engaged in the business of a private detective without having first obtained a license from the Provincial Treasurer.

Rev. Stat. c. 203 amended.

8. *The Ontario Insurance Act* is amended by adding thereto after section 149, section 149a, as follows:—

Suicide shall not render contestable an incontestable policy unless so stated.

149a. Where a contract of insurance of the person provides either in terms or in effect that the contract shall be indisputable or incontestable, it shall not be disputable or contestable on the ground that the assured committed suicide, unless in express terms it is so stipulated by the contract and is so stated in the application on which the contract is founded.

Operation of section suspended.

This section shall come into effect on the 1st day of January, 1911.

9 Edw. VII., c. 147 amended.

9. The Preamble of the Act passed in the ninth year of His Majesty's reign, Chaptered 147, being *An Act to incorporate The Tillsonburg and Southern Counties Radial Railway Company*, is hereby amended by striking out the word "East" in the 19th line thereof and substituting the word "West" therefor, and by inserting after the word "Walsingham" in the 22nd and 23rd lines, the words "from

the Town of Tillsonburg through the Townships of Middleton and Houghton, in the County of Norfolk, to the Village of Fairground, in the said Township of Houghton"; and section 7 of the said Act is hereby amended by striking out the word "East" in the 9th line thereof and substituting therefor the word "West," and by adding after the word "Walsingham" in the 13th line thereof, the words "from the Town of Tillsonburg through the Townships of Middleton and Houghton in the County of Norfolk to the Village of Fairground in the said Township of Houghton."

10. Subsection 2 of section 5 of *The Interpretation Act* 7 Edw. VII., c. 2, s. 5, subs. 2, repealed. is repealed and the following subsection substituted therefor:

- (2) Such endorsement shall be taken to be a part of the Act, and one month after the date of the assent or signification, as the case may be, shall be the date of the commencement of the Act, if no earlier commencement is therein provided. Endorsement on Acts—Commencement.

11.—(1) *The Judicature Act* is amended by adding the following section: Rev. Stat. c. 51 amended.

- "104b. In any action brought to recover damages or other compensation for or in respect of bodily injury sustained by any person, the Court or a Judge or any person who by consent of parties, or otherwise, has power to fix the amount of such damages or compensation, may order that the person in respect of whose injury damages or compensation is sought shall submit to be examined by a duly qualified medical practitioner who is not a witness on either side, and may make such order respecting such examination and the costs thereof as he may think fit. The medical practitioner named in such order shall be selected by the Court or Judge making the order, and may afterwards be a witness on the trial unless the Judge before whom the action is tried otherwise directs." Physical examination of plaintiff by medical practitioner. Con. Rule Sup. Court, No. 462.

(2) Clause *b* of subsection 1 of section 122 of *The Judicature Act* is amended by adding thereto the following words: "and in the County, District and Surrogate Courts." Rev. Stat. c. 51, s. 122, subs. 1, cl. b amended.

(3) Section 126 of *The Judicature Act* is repealed. Rules of court. Rev. Stat. c. 51, s. 126 repealed.

(4) Section 74 of the said Act is amended by adding thereto the following clause: Rev. Stat. c. 51, s. 74 amended.

Appeals
under
Rev. Stat.
c. 186.

(11) From a judge of the County or District Court under section 110 of *The Registry Act*.

Rev. Stat.
c. 51
amended.

13. The Act respecting Innkeepers is amended by adding thereto the following section:

Transfer of
actions to
county or
district
court.

186a. Where a plaintiff has brought an action of the proper competency of a County or District Court in the High Court the action may, by leave of a Judge, be transferred at any time before the trial to the County or District Court on such terms including payment of the additional costs incurred by the defendant owing to the action having been brought in the High Court as to the Judge may seem just.

9 Edw. VII.,
c. 38
amended.

12. Section 8 of *The Replevin Act* is repealed and the following section substituted therefor;

Jurisdiction
of county
and district
courts in
replevin.

(8) The County and District Courts shall have jurisdiction in replevin as is provided in *The County Courts Act*. R.S.O. 1897, c. 66, s. 7; 9 Edw. VII., c. 38.

Rev. Stat.
c. 187
amended.

13. *The Act respecting Innkeepers* is amended by adding thereto the following section;

Innkeeper,
etc. not to
keep wearing
apparel of
servant or
labourer in
pledge for
more than \$6.

6. No tavern keeper or boarding house keeper shall keep the wearing apparel of any servant or labourer in pledge for a greater sum than \$6 and on payment or tender of such sum, or of any less sum due, such wearing apparel shall be immediately given up, whatever be the amount due by such servant or labourer; but this is not to apply to other property of the servant or labourer. R.S.O. 1897, c. 157, s. 6.

Rev. Stat.
c. 165
amended.

Married
woman may
discharge
mortgage.

14. Section 3 of *The Married Women's Real Estate Act* is amended by inserting after the word "estate," in the 7th line, the following words: "and may also execute a certificate of discharge of mortgage of any real estate."

9 Edw. VII.,
c. 87
amended.

15. Section 6 of *The Guarantee Companies Securities Act* is amended by striking out the word "shall" in the 5th line thereof and substituting therefor the word "may."

16. *The Ontario Factories Act* is amended by adding thereto the following section: Rev. Stat.
c. 256
amended.

51. An action for the recovery of damages for an injury caused by a breach of any of the provisions of this Act, shall not be maintainable unless the action is commenced within six months from the occurrence of the accident causing the injury, or in case of the death of the person injured, within twelve months from the time of death. Limitation of
actions for
injuries in
factories.

17. Section 48 of *The Ontario Companies Act* is amended by adding thereto the following subsection: 7 Edw. VII.,
c. 34
amended.

(1) Should shares in the Capital Stock of the Company be issued in pounds sterling or francs then shares previously issued in Canadian currency may at the option of the holder be exchanged for shares in pounds sterling or francs as the case may be. Issue of
shares of
companies in
sterling
money or
francs.

(2) For the purpose of dividends, distribution of assets, voting and all other matters relating to the amount of shares issued in pounds sterling or francs, one pound sterling or twenty-five francs shall be calculated as \$5; Pound
sterling or
25 francs to
be equivalent
to \$5.

(3) Shares herein shall include share warrants where the company is authorized to issue the same. Share
warrants
included.

18.—(1) It shall be lawful for the High Court of Justice or a Judge thereof upon the application of the Provincial Archivist and upon such terms and conditions as may be thought fit, to order that the Records, Minute Books, papers and documents mentioned in the Schedule to this Act, now in the custody of the High Court at Osgoode Hall or such of them as the Court or Judge shall think proper shall be delivered by the Clerk of the Records and Writs to the said Provincial Archivist for the purpose of being calendered and kept in the Bureau of Archives. Certain
records and
documents to
be transferred
from High
Court to the
Provincial
Archivist.

(2) The description and date of all Records, Minute Books, papers and documents the delivery of which is desired shall be set forth in a list thereof to be produced to the Court or Judge on the application for the Order. Particulars
to be set
out in
application.

Receipt to
be given by
Archivist.

(3) A receipt for all Records, Minute Books, papers and documents received by the Provincial Archivist shall be signed by him and delivered to the Clerk of the Records and Writs who shall file the same in his office.

9 Edw. VII.,
c. 29
amended.

19. *The County Judges Act* is amended by adding thereto the following:

Allowance to
judges of
district
courts.

16a. In lieu of the fees otherwise payable to him under *The Surrogate Courts Act* and for services performed under *The Mechanics and Wage Earners Lien Act*, *The Woodmans Lien for Wages Act* and *The Act for Protecting the Public Interests in Rivers, Streams and Creeks* there shall be paid to every Judge and Junior Judge of a District Court the sum of \$500 per annum, and the fees heretofore payable in money under any of the said Acts shall be payable in stamps and shall form part of the Consolidated Revenue Fund. 6 Edw. VII., c. 19, s. 16.

Repeal of
Rev. Stat.
c. 213, ss. 14-
18 not to
have effect.

20. Notwithstanding the repeal of sections 14 to 18 of *The Act Respecting Cemetery Companies* by section 211 and Schedule E. of *The Ontario Companies Act* passed in the seventh year of His Majesty's reign, chaptered 34, the said sections 14 to 18 shall for all purposes be deemed to have been and hereafter to be in force as if they had not been included in the said repealing section and schedule.

6 Edw. VII.,
c. 59, s. 5,
amended.
Quorum of
General
Hospital
Board.

21. Section 5 of *The Toronto General Hospital Act, 1906*, is amended by striking out the word "nine" in the last line thereof and substituting the word "five" therefor.

6 Edw. VII.
c. 55, s. 39,
subs. 7
amended.

22. Subsection 7 of section 39 of *The University Act, 1906*, is amended by adding after the word "them" in the fifth line the words "or of any other University or College federated with the University of Toronto, but in such last mentioned case at the cost and expense of such federated University or College."

SCHEDULE.

(a) Minute Books and Records of the old Courts of Common Pleas from the year 1790 to the year 1796, with all the papers accompanying the same or belonging thereto and other miscellaneous papers down to and inclusive of the year 1800.

(b) Such other documents, books and records down to and inclusive of the year 1825, as the Court or Judge may think proper.

(c) A bound volume of the *Patriot* newspaper for the year 1838.

(d) Several Blue Books for the year 1850 and following years.

No. 162.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

The Statute Law Amendment Act, 1910.

First Reading 15th day of Feb., 1910.

Mr. For.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

The Statute Law Amendment Act, 1910.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 2 of section 15 (a) added to *The Act respecting Coroners* by section 29 of the *Statute Law Amendment Act, 1908*, passed in the 8th year of the reign of His Majesty, Chapter 33, is repealed and the following substituted therefor:

Rev. Stat.
c. 97, s. 15,
subs. 2
amended.

- (2) The Coroner shall certify what he deems a reasonable allowance for the fees of the stenographer, and the same shall be paid on the order of the Coroner in the same way as is provided by section 14 of this Act in regard to medical practitioners.

Coroner shall
certify to
stenograph-
er's fees.

2. Section 54 of *The Act to incorporate the Bracebridge and Trading Lake Railway Company*, as enacted by section 46 of the *Statute Law Amendment Act, 1907*, passed in the 7th year of the reign of His Majesty, chapter 23, is repealed and the following substituted therefor:

Edw. VII.,
c. 23, s. 54
repealed.

(54) The railway shall be commenced on or before the 1st day of May, 1911, and finally completed within five years thereafter.

Extension of
time for
commencement
and com-
pletion of
Bracebridge
and Trading
Lake Ry.

3. Sections 3 and 4 of *The Act to regulate the means of Egress from Public Buildings*, passed in the 9th year of His Majesty's reign, chapter 87, is amended by striking out the words "involving the use of a combustible film" where they occur in the said sections.

9 Edw. VII.,
c. 87, ss. 3
and 4
amended.

Cinematograph
shows.

4. Section 2 of *The Private Detectives Act*, passed in the 9th year of His Majesty's reign, chaptered 83, is repealed, and the following substituted therefor:

9 Edw. VII.,
c. 83, s. 2
amended.

Private
detectives
to be licensed.

2. No person shall engage in or advertise the business of a private detective, or indicate upon any letter, document or paper that he is engaged in the business of a private detective without having first obtained a license from the Provincial Treasurer.

Rev. Stat.
c. 203
amended.

5. *The Ontario Insurance Act* is amended by adding thereto after section 149, section 149a, as follows:—

Suicide shall
not render
contestable
an incontest-
able policy
unless so
stated.

- 149a. Where a contract of insurance of the person provides either in terms or in effect that the contract shall be indisputable or incontestable, it shall not be disputable or contestable on the ground that the assured committed suicide, unless in express terms it is so stipulated by the contract and is so stated in the application on which the contract is founded.

Operation of
section sus-
pended.

This section shall come into effect on the 1st day of January, 1911.

9 Edw. VII.,
c. 147
amended.

6. The Preamble of the Act passed in the ninth year of His Majesty's reign, Chaptered 147, being *An Act to incorporate The Tillsonburg and Southern Counties Radial Railway Company*, is hereby amended by striking out the word "East" in the 19th line thereof and substituting the word "West" therefor, and by inserting after the word "Walsingham" in the 22nd and 23rd lines, the words "from the Town of Tillsonburg through the Townships of Middleton and Houghton, in the County of Norfolk, to the Village of Fairground, in the said Township of Houghton"; and section 7 of the said Act is hereby amended by striking out the word "East" in the 9th line thereof and substituting therefor the word "West," and by adding after the word "Walsingham" in the 13th line thereof, the words "from the Town of Tillsonburg through the Townships of Middleton and Houghton in the County of Norfolk to the Village of Fairground in the said Township of Houghton."

Rev. Stat.
c. 51
amended.

- 7.—(1) *The Judicature Act* is amended by adding the following section:

Physical
examination
of plaintiff
by medical
practitioner.

- "104b. In any action brought to recover damages or other compensation for or in respect of bodily injury sustained by any person, the Court or a Judge or any person who by consent of parties, or otherwise, has power to fix the amount of such damages or compensation, may order that the person in respect of whose injury damages or compensation is sought shall submit to be examined by a duly qualified medical practitioner

who is not a witness on either side, and may make such order respecting such examination and the costs thereof as he may think fit. The medical practitioner named in such order shall be selected by the Court or Judge making the order, and may afterwards be a witness on the trial unless the Judge before whom the action is tried otherwise directs." Con. Rule Sup. Court, No. 462.

(2) Clause *b* of subsection 1 of section 122 of *The Judicature Act* is amended by adding thereto the following words: "and in the County, District and Surrogate Courts." Rev. Stat. c. 51, s. 122, subs. 1, cl. *b* amended. Rules of court.

(3) Section 126 of *The Judicature Act* is repealed. Rev. Stat. c. 51, s. 126 repealed.

(4) Section 74 of the said Act is amended by adding thereto the following clause: Rev. Stat. c. 51, s. 74 amended.

(11) From a judge of the County or District Court under section 86 of *The Registry Act*. Appeals under Rev. Stat. c. 136.

(5) The following subsection is added to *The Judicature Act*:— Rev. Stat. c. 51 amended.

186a. Where a plaintiff has brought an action of the proper competency of a County or District Court in the High Court the action may, by leave of a Judge, be transferred at any time before the trial to the County or District Court on such terms including payment of the additional costs incurred by the defendant owing to the action having been brought in the High Court as to the Judge may seem just. Transfer of actions to county or district court.

8. Section 8 of *The Replevin Act* is repealed and the following section substituted therefor; 9 Edw. VII., c. 38 amended.

(8) The County and District Courts shall have jurisdiction in replevin as is provided in *The County Courts Act*. R.S.O. 1897, c. 66, s. 7; 9 Edw. VII., c. 38. Jurisdiction of county and district courts in replevin.

9. *The Act respecting Innkeepers* is amended by adding thereto the following section; Rev. Stat. c. 187 amended.

6. No tavern keeper or boarding house keeper shall keep the wearing apparel of any servant or labourer in pledge for a greater sum than \$6 Innkeeper, etc. not to keep wearing apparel of servant or

labourer in
pledge for
more than \$6.

and on payment or tender of such sum, or of any less sum due, such wearing apparel shall be immediately given up, whatever be the amount due by such servant or labourer; but this is not to apply to other property of the servant or labourer. R.S.O. 1897, c. 157, s. 6.

Rev. Stat.
c. 165
amended.

Married
woman may
discharge
mortgage.

10. Section 3 of *The Married Women's Real Estate Act* is amended by inserting after the word "estate," in the 7th line, the following words: "and may also execute a certificate of discharge of mortgage of any real estate."

9 Edw. VII.,
c. 67
amended.

11. Section 6 of *The Guarantee Companies Securities Act* is amended by striking out the word "shall" in the 5th line thereof and substituting therefor the word "may."

Certain
records and
documents to
be transferred
from High
Court to the
Provincial
Archivist.

12.—(1) It shall be lawful for the High Court of Justice or a Judge thereof upon the application of the Provincial Archivist and upon such terms and conditions as may be thought fit, to order that the Records, Minute Books, papers and documents mentioned in the Schedule to this Act, now in the custody of the High Court at Osgoode Hall or such of them as the Court or Judge shall think proper shall be delivered by the Clerk of the Records and Writs to the said Provincial Archivist for the purpose of being calendered and kept in the Bureau of Archives.

Particulars
to be set
out in
application.

(2) The description and date of all Records, Minute Books, papers and documents the delivery of which is desired shall be set forth in a list thereof to be produced to the Court or Judge on the application for the Order.

Receipt to
be given by
Archivist.

(3) A receipt for all Records, Minute Books, papers and documents received by the Provincial Archivist shall be signed by him and delivered to the Clerk of the Records and Writs who shall file the same in his office.

9 Edw. VII.,
c. 29
amended.

13. *The County Judges Act* is amended by adding thereto the following:

Allowance to
judges of
district
courts.

16a. In lieu of the fees otherwise payable to him under *The Surrogate Courts Act* and for services performed under *The Mechanics and Wage Earners Lien Act*, *The Woodmans Lien for Wages Act* and *The Act for Protecting the Public Interests in Rivers, Streams and Creeks* there shall be paid to every Judge and Junior Judge of a

District Court the sum of \$500 per annum, and the fees heretofore payable in money under any of the said Acts shall be payable in stamps and shall form part of the Consolidated Revenue Fund. 6 Edw. VII., c. 19, s. 16.

14. Section 5 of *The Toronto General Hospital Act, 1906*, is amended by striking out the word "nine" in the last line thereof and substituting the word "five" therefor. 6 Edw. VII., c. 59, s. 5, amended.
Quorum of General Hospital Board.

15. Subsection 7 of section 39 of *The University Act, 1906*, is amended by adding after the word "them" in the fifth line the words "or of any other University or College federated with the University of Toronto, but in such last mentioned case at the cost and expense of such federated University or College." 6 Edw. VII., c. 55, s. 39, subs. 7 amended.

16. Wherever by any public or private Act of the Legislature of Ontario any person or the occupant for the time being of any office is empowered to do or perform any act, matter or thing and such person or the occupant for the time being of such office is disqualified by interest from acting, and no other person is by law empowered to do or perform such act, matter or thing, then any interested party may apply, upon summary motion, to a Judge of the High Court in Chambers, who shall have power to appoint some impartial person to do or perform the act, matter or thing in question Procedure when public officer interested in question before him.

17. Section 31 of *The Loan Corporations Act* is hereby repealed. R.S.O. c. 205, s. 31 repealed.

18. Subsection 2 of section 150 of *The Ontario Insurance Act* is hereby amended by striking out the words "No corporation" in the first line of the said subsection, and by inserting in lieu thereof, the following words: Rev. Stat. c. 203, s. 150 (2) amended.

"No corporation, company, association, or society shall insure the life of an infant, whose age at the time of insurance is not at least one year, nor"

19. Section 3 of the Act passed in the 9th year of His Majesty's reign and chaptered 64, intituled *An Act to amend The Pharmacy Act*, is repealed, and the following section substituted therefor: 9 Edw. VII., c. 64, s. 3, repealed.
Rev. Stat., c. 176.

(3) Schedule A of *The Pharmacy Act* is amended by adding after the words "carbolic acid" in Part I. the words "exceeding a 5 per cent. solution," and by striking out the word "hellebore" in Part II. The Pharmacy Act, Sched. A amended.

6 Edw. VII.,
c. 55, The
University
Act, 1906,
amended.

20. Section 140 (1) of *The University Act 1906*, is amended by striking out the first and second subsections and substituting the following:

Annual grant
to University
of portion of
revenue from
succession
duties.

Limit.

How
payable.

140. (1) For the purpose of making provision for the support of the University and of the University College there shall be paid to the Board out of the consolidated revenue of the Province yearly and every year a sum equal to fifty per cent. of the average yearly net receipts of the Province from succession duties; provided that the said sum shall not exceed \$500,000 in any one year.

(2) The said annual sum shall be paid in equal half-yearly instalments on the first day of July and on the first day of January each year, the first of which shall be paid on the first day of July next, and the average yearly net receipts of the Province from succession duties shall be determined by, and be based upon, the receipts from such duties of the three years ended on the 31st day of October next preceeding the day on which the first instalment of the year is to be paid, after deducting costs and charges for collection, including any interest allowed for prepayment or otherwise, and any refund of succession duties or of a sum of money deposited in lieu of, addition to or substitution for any bond and any interest payable thereon allowed or paid by the Province after the 31st day of October, 1906, notwithstanding such refund and interest, or any part thereof, belonged to any year or years prior to the said 31st day of October, 1906.

Ontario,
Hudson's
Bay and
Western
Railway.

21. The cash grant of \$2,000 per mile given by subsection (1) of section 1 of The Act passed in the 62nd year of Her Majesty Queen Victoria, chaptered 23, to the Ontario Hudson's Bay & Western Railway, between Missinabie Station on the Canadian Pacific Railway and Tidewater at the mouth of Moose River on James Bay, a distance not exceeding 240 miles, renewed by section 42 of *The Statute Law Amendment Act, 1907*, for a period of three years from the passing of said *The Statute Law Amendment Act, 1907*, for that portion of said railway between Missinabie Station and the National Transcontinental Railway, a distance not exceeding 115 miles, is further renewed for the period of two years from the passing of this Act, for that portion of the railway not exceeding 115 miles between the said Missinabie Station and the said National Transcontinental Railway.

22. The County Council of the County of York may pass a by-law as provided in section 2 of *The Act for the Improvement of Public Highways* and may exercise the powers and perform the duties provided by the said Act with respect to that part of the county included in the Electoral Districts of East York and West York and may issue debentures for the purposes provided by the said Act.

County Council of York may adopt road system for part of County.

23. If the County Council passes a by-law under section 1 of the last mentioned Act adopting the system of road improvement for the Electoral Districts of East York and West York only, the rate for the payment of any debentures issued for that purpose shall be levied and collected upon the property liable to assessment in the Electoral Districts of East York and West York, and no part of the cost of such system shall be borne by the municipalities included in the Electoral District of North York.

North York not to be included.

24. *The Act respecting the City of London* passed at the present session is amended by striking out of the preamble the words, "That the said Council did on the 20th day of December, A.D. 1909, pass certain By-laws Numbered 3,453, 3,454, 3,455, 3,456, 3,457, 3,458, 3,459 and 3,460, to provide for raising the moneys in respect of the sewers in the said By-laws mentioned and for levying rates to meet the debentures to be issued therefor", and by striking out of Schedule "A" to the said Act all reference to the said By-laws Numbered 3,453, 3,454, 3,455, 3,456, 3,457, 3,458, 3,459 and 3,460, and such amendments shall be made in the said Act in the annual volume of the Statutes.

25. Notwithstanding any provision in *The Act respecting the Public Works of Ontario*, it is hereby declared that any sums appropriated by the Legislative Assembly for the reconstruction of the Ontario Government Office Building, London, England, and furnishing the same, may be expended and paid by the Provincial Treasurer, notwithstanding the building is under lease and not vested in His Majesty, represented by the Minister of Public Works.

Ontario Government office at London.

26. Section 5 of *The Act respecting Aid to Certain Railways*, passed in the 2nd year of His Majesty's reign and Chaptered 25, as amended by Section 49 of *The Statute Law Amendment Act, 1907*, is further amended by striking out the figures "1910" where they occur in the said amended section and substituting therefor the figures "1911."

2 Edw. VII. c. 25, amended.

27. Section 7 of *The Boards of Education Act* is repealed and the following sections substituted therefor:

9 Edw. VII. c. 94, s. 7. Boards of Education Act amended.

7.—(1) Where the office of an elected member becomes vacant from any cause before the expiration of the term for which he was elected, a majority of the remaining elected members present shall at the first regular elected meeting after the vacancy occurs, elect some duly qualified person to fill the vacancy, and the person so elected shall hold office for the remainder of the term for which his predecessor was elected.

(2) In case of an equality of votes the elected member having the largest number of votes at his election shall have a second or casting vote.

(3) In cities where Trustees are elected by wards, then the vacancy shall be filled by an election in the ward in which the vacancy occurs.

9 Edw. VII., c. 94, s. 17, amended. **28.** Subsection (3) of Section 17 of the said Act is repealed and the following subsection substituted therefor:

(3) In case of an equality of votes the elected member who has received the largest number of votes at his election shall have a second or casting vote.

The Ontario Insurance Act amended. **29.** Clause 36 of Section 2 of *The Ontario Insurance Act* as amended by Section 1 of the Act passed in the 7th year of His Majesty's reign, Chaptered 36, is further amended by adding thereto the following:

This clause shall in the case of an assured dying hereafter apply to insurance of the person effected on or before the 13th day of April 1897.

6 Edw. VII., c. 51, s. 4, repealed and new section substituted. **30.** Section 4 of the Act passed in the 6th year of His Majesty's reign, Chaptered 51, is hereby repealed and the following substituted therefor:

4. The Inspector shall have full power, in his discretion, to order the owner or possessor of any bees dwelling in box or immovable frame hives, to transfer such to movable frame hives within a specified time, and in default of such transfer the Inspector may destroy, or order the destruction of, such hives and the bees dwelling therein.

9 Edw. VII., c. 86, s. 7, repealed. **31.** Section 7 of the Act passed in the 9th year of His Majesty's reign, Chaptered 86, is hereby repealed and the following substituted therefor:

7. On and after the first day of January, 1911, no person shall act or be allowed to act as chief maker in any creamery or cheese factory who does not hold a certificate of qualification, said certificate to be issued as follows:

- (a) By the Dairy School of the Ontario Agricultural College, or by the Eastern Dairy School;
- (b) By the Minister on the general grounds of competency, as recommended by an Advisory Board to be composed of the Chief Dairy Instructors, the President of the Dairymen's Association of Eastern Ontario, the President of the Dairymen's Association of Western Ontario and the Director of Dairy Instruction;

Provided, however, that upon the written authority of the Superintendent of either Dairy School any person may be allowed to act as chief maker in any creamery or cheese factory for a period not to exceed two years after he has passed his examinations in the Dairy School.

32. Section 2 of the Act passed in the 7th year of His Majesty's reign, Chaptered 32, is amended by adding the following subsection: 7 Edw. VII.
c. 32, s. 2,
amended.

- (2) The said Board of Examiners shall have power to enforce the provisions of this Act and to prosecute for any breach or violation thereof.

33. Section 6 of the Act passed in the 7th year of His Majesty's reign, Chaptered 32, is amended by inserting immediately after the word "Ontario" in the 11th line thereof the words: 7 Edw. VII.
c. 32, s. 6.

or who has a certificate from any other Province of the Dominion shall be granted a provisional certificate, such certificate to be good for one year.

34. Subsection 1 of Section 156 of *The Ontario Insurance Act* is amended by adding at the end of the subsection the following words: R.S.O. 1897.
c. 203, s. 156
(1), amended

"Provided always that if such insurance corporation is carrying on business and has appointed an agent or representative in such foreign jurisdiction upon whom process may be served, the insurance money payable under such contract may be paid to the person or persons entitled, according to

the law of such foreign jurisdiction to receive the money and give a discharge for the same as if such money was by the terms of the contract made payable in such foreign jurisdiction, and such payment shall be a good discharge to such insurance corporation."

7 Edw. VII.
c. 9, s. 25.
The Supple-
mentary
Revenue Act.

35. Section 25 of *The Supplementary Revenue Act, 1907*, is amended by adding thereto the following subsections:

- (2) Where oil in paying quantities and natural gas in considerable volume are found in the same well, such gas shall not (subject to the provisions of subsection 3) be subject to the tax imposed by this Act.
- (3) Upon the application of any person who alleges that there is a demand for such natural gas and has offered to purchase the supply and to compensate the owner for it and for any stoppage or diminution in the flow of oil consequent thereon, or who alleges that the escape of such natural gas should be shut off and that he is willing to compensate the owner therefor and for any stoppage or diminution in the flow of oil consequent thereon, and satisfies the Lieutenant-Governor in Council that the price which has been offered and compensation proposed are reasonable, the Lieutenant-Governor in Council may direct that if the owner within and at such times and upon such terms and conditions as the Lieutenant-Governor in Council shall prescribe does not supply such natural gas or allow the same to be taken by the applicant or shut the same off, as the case may be, such natural gas shall be subject to the tax imposed by this Act, and if the owner does not comply with and conform to such direction to the satisfaction of the Lieutenant-Governor in Council such natural gas shall be subject to the tax accordingly.
- (4) Upon the report of the Minister of Lands, Forests and Mines, that it appears to him that oil and natural gas exist in considerable quantities in any described locality, and that it is practicable to pump the oil therefrom without wasting the gas upon proper precautions being observed in drilling wells therein and operating same, the

Lieutenant-Governor in Council may by proclamation set apart such locality or any part thereof, and may make regulations as to the methods to be adopted in drilling or sinking wells for oil or gas therein, and as to the precautions to be taken for preventing the waste of such gas, and thereafter no person shall drill or sink wells for oil or gas in the locality described in the proclamation, except under and subject to such regulations, and except upon notice in writing to the Minister of his intention to sink such wells.

- (5) The Lieutenant-Governor in Council may at any time and from time to time revoke any such direction, proclamation or regulations.

36. Section 23 of *The Act respecting Burlington Beach* ^{7 Edw. VII. c. 22, s. 23 amended.} passed in the 7th year of His Majesty's reign, chaptered 22, is amended by adding thereto the following words: "provided also that for the purpose of taking a vote of the ^{Burlington Beach.} municipal electors on any by-law submitted to such electors under the provisions of *The Liquor License Act* the township of Saltfleet shall be deemed to be separate and distinct from Burlington Beach aforesaid."

37.—(1) Subsection 1 of section 4 of *The General Sessions Act* ^{9 Edw. VII. c. 30. General Sessions Act amended.} is amended by striking out the words "Except in the County of " in the first line, and substituting therefor the words "Except in the Counties of Carleton, Middlesex, Wentworth and ".

(2) The following is added as subsection 3 to section 4 of the said Act:—

- (3) In the Counties of Carleton, Middlesex and Wentworth two such sittings shall be held in each year, to commence on the first Tuesday in June and December.

(3) Clause (a) of section 6 of the said Act is amended by striking out the word "October" in the third line, and substituting therefor the word "November," and clause (b) of the said section is amended by striking out the word "October" in the third line and substituting therefor the word "November," and clause (i) of the said section is amended by striking out the word "June" in the second line and substituting therefor the word "April."

38. Section 29 of *The Public Health Act* is repealed and the following substituted therefor:— ^{The Public Health Act, s. 29, amended.}

Rev. Stat.,
c. 248.

(1) Where a local board of health has not been established as required by Section 48 of this Act, or where a local board of health or any officer thereof has in the opinion of the Minister refused or neglected to act with sufficient promptness or efficiency in carrying out the provisions of this Act or any order or regulation of the Provincial Board of Health, or to take such efficient measures as might remove any unsanitary condition or abate any nuisance, the Minister may direct the chief health officer of the Province to carry out such measures as may be authorized by this Act or by any order or regulation made thereunder.

(2) The expenses so incurred shall be certified by the Minister, and shall be a debt due by the Municipality, and upon presentation of such certificate the Treasurer of the municipality shall pay the same out of any funds of the municipality in his hands.

(3) Nothing in this section contained shall prevent the municipal council from recovering from any individual or corporation any money paid by the municipal corporation under this section as provided by section 61 of this Act.

Rev. Stat.,
c. 284, s. 13,
subs. 1,
amended.

39. Subsection 1 of section 13 of *The Line Fences Act*, Chapter 284, of the Revised Statutes of Ontario, 1897, is amended by inserting after the word "premises" in the first line the words "or hears the appeal at a place other than the County town."

The Mining
Act of
Ontario,
8 Edw. VII.,
c. 21, sec.
63, subs. 4,
amended.

40. Subsection 4 of section 63 of *The Mining Act of Ontario* is amended by adding thereto the following words: "nor except by leave of the Commissioner after its validity shall hereafter have been adjudicated upon by the Recorder or the Commissioner, or after it shall have been on record for sixty days and has had a dispute entered against it; but this amendment is not retroactive and shall not apply to any case where such validity has heretofore been adjudicated upon by the Recorder or the Commissioner."

The Registry
Act,
amended.

Commuta-
tion of
Registrars'
Fees.

41. The Lieutenant-Governor in Council may commute the fees payable to a Registrar of Deeds or Local Master of Titles in any County or District whether both offices are held by one person or otherwise for a fixed sum each year, provided that such sum shall not exceed the income which

the said Registrar or Local Master would have derived from fees during such year.

42. The times fixed for the commencement and completion of the Toronto, Lindsay and Pembroke Railway are hereby extended for three and seven years respectively beyond the respective periods fixed therefor by the Act of Incorporation passed in the 62nd year of the reign of Her late Majesty Queen Victoria, chaptered 105, as amended by *The Statute Law Amendment Act, 1907*, section 44.

Toronto, Lindsay and Pembroke Railway.

Extension of times for commencement and completion.
62 V., c. 105.

43. Section 6 of *The Act respecting Aid to certain Railways* passed in the 63rd year of the reign of Her late Majesty Queen Victoria, chaptered 29, as amended by *The Statute Law Amendment Act, 1907*, section 45, is further amended by striking out the figures "1909" and substituting the figures "1912" therefor.

63 V., c. 29, s. 6, amended.

44. Section 21 of *The Burlington Beach Act* is hereby repealed and the following section substituted therefor:

7 Edw. VII., c. 22, s. 21.

21. No action shall be brought against the Commissioners personally for anything done or omitted to be done under this Act without the approval of the Lieutenant-Governor in Council.

Burlington Beach.

45. Section 19 of *The Horticultural Societies Act* passed in the present Session is amended by striking out the figures "8000" and substituting therefor the figures "10000"; by striking out the figures "2400" and substituting therefor the figures "3000"; by striking out the figures "4800" and substituting therefor the figures "6000"; by striking out the figures "800" in clause (c) and substituting therefor the figures "1000"; and such amendments shall be made in the said Act in the Annual Volume of the Statutes.

Horticultural Societies Act, amended.

SCHEDULE.

(a) Minute Books and Records of the old Courts of Common Pleas from the year 1790 to the year 1796, with all the papers accompanying the same or belonging thereto and other miscellaneous papers down to and inclusive of the year 1800.

(b) Such other documents, books and records down to and inclusive of the year 1825, as the Court or Judge may think proper.

(c) A bound volume of the *Patriot* newspaper for the year 1838.

(d) Several Blue Books for the year 1850 and following years.

No. 162.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

The Statute Law Amendment Act, 1910.

First Reading 15th day of Feb., 1910.

Mr. Foy.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

PROPOSED ADDITIONS TO BILL (No. 162) THE
STATUTE AMENDMENT ACT.

46.—(1) The Ontario Anatomy Act is amended by Rev. Stat.,
c. 177, s. 5,
amended. repealing section 5 as amended, and substituting the following therefor:

5. The Lieutenant-Governor in Council may appoint a General Inspector of Anatomy for the Province and Local Inspectors in such places as may be deemed advisable and may make Regulations defining the duties of the General Inspector and imposing additional duties upon the Local Inspector, and may fix the fees to be received by the General and Local Inspectors for services performed under this Act and under the said Regulations and such Regulations may from time to time be varied.

(2) Violations of the Regulations from time to time Violations of
Regulations
punishable. passed under the preceding subsection shall be deemed violations of this Act and shall be punishable accordingly.

(3) Section 14 of the said Act as amended is repealed. Section 14
repealed.

47.—(1) The Act to encourage the Destroying of Wolves Rev. Stat.,
c. amended. and the amendments thereto shall apply to the destruction of the gray timber wolf and not to any other kind of wolf.

(2) Where by the said Act it is required that the head of the wolf killed shall be produced it shall hereafter be requisite that the skin and head of the wolf shall be produced and the said Act shall be taken to be amended accordingly.

(3) This section shall come into force and take effect on the 1st day of September, 1910.

48. Notwithstanding the repeal of sections 14 to 18 of Repeal of
Rev. Stat.,
c. 213, ss. 14-
18 not to
have effect. *The Act Respecting Cemetery Companies* by section 211 and Schedule E. of *The Ontario Companies Act* passed in the seventh year of His Majesty's reign, chaptered 34, the said sections 14 to 18 shall for all purposes be deemed to have been and hereafter to be in force as if they had not been included in the said repealing section and schedule.

9 Edw. VII.,
chap. c. 19,
sec. 8 and
amended.

49. Section 8 of *The Power Commission Amendment Act, 1909*, is amended by adding thereto the following words:—

“So far as such action seeks to declare invalid or set aside any contract or by-law in this section mentioned or referred to, but the plaintiff in any such action shall nevertheless be at liberty to continue his action so as to claim the damages (if any) which he, in the judgment of the Court, may personally and individually be entitled to recover, and for this purpose, he may amend his claim and statement of claim, confining his demand to such damages only.”

50. Subsection 3 of section 7 of *The Ontario Summary Convictions Act* passed this Session is repealed and the following subsection substituted therefor:

(3) The sums allowed for costs shall be stated in the conviction or order, and shall be recoverable in the same manner and under the same warrants as a penalty adjudged to be paid by the conviction or order, such costs shall extend to and include costs and charges of the distress, of the commitment, and of conveying the defendant to prison; but it shall not be necessary to include them in the amount mentioned in the conviction or order, but the amount thereof in case of a warrant of commitment shall be mentioned on the warrant when it is delivered to the gaoler, and in the case of a distress the person by whom the same are payable shall be entitled on demand to a statement of the amount thereof.

And such amendment shall be made in the said Act in the Annual Volume of the Statutes.

51.—(1) Subsection 3 of section 78 of *The Mining Act* of Ontario is amended by adding thereto the following words: “The report shall show in detail the names and residences of the men who performed the work and the dates upon which each man worked in its performance.”

(2) Form 14 in the schedule to the said Act is amended by striking out the words “hereby notify you that I (c) have performed thereon the mining operations required by *The Mining Act* of Ontario as follows:” and substituting therefor the following:—“comprising the lands known and described as

hereby state and report that I (c) have in conformity with *The Mining Act* of Ontario performed or caused to be per-

BILL

An Act to incorporate The Hurontario Railway Company.

WHEREAS Frank Foster Telfer, Wholesale Merchant; Preamble.
Sanford H. Lindsay, Manufacturer; and William T. Allan, Barrister, all of the Town of Collingwood, in the County of Simcoe, have petitioned for an Act to incorporate a company to construct a railway to be operated by steam or electricity from a point at or near the Town of Collingwood in the County of Simcoe, thence in a south-easterly direction through the Townships of Nottawasaga, Sunnidale, Flos, and Vespra to the Town of Barrie, thence to a point on the Canadian Northern Railway at or near the Town of Orillia, or to a point on the said railway south or south-east of Lake Simcoe, and also to incorporate in the said Act certain portions of the Act passed in the 38th year of the reign of Her late Majesty, Queen Victoria, Chaptered 50; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Frank Foster Telfer, Sanford H. Lindsay and William T. Allan, together with such other persons, firms and corporations as shall hereafter become shareholders of the said company hereby incorporated, are hereby constituted and declared to be a body corporate and politic by the name of the "Hurontario Railway Company," hereinafter called "the Company." Incorporation

2. The company is authorized and empowered to survey, Location of line.
lay out, construct, complete, equip and maintain a railway to be operated by steam or electricity, or partly by one and partly by the other, from a point in, at or near the Town of Collingwood, thence in a south-easterly direction through the Townships of Nottawasaga, Sunnidale, Flos, and Vespra to

the Town of Barrie, thence to a point on the Canadian Northern Railway at or near Orillia, or to a point on the said line south or south-east of Lake Simcoe.

Terminals,
docks, hotels,
etc.

3. The Company may build and operate and maintain or may become interested in terminals, docks, real estate, ships for passengers or freight, hotels, sanitariums, summer resorts or parks, machine shops, iron or steel works, blast furnaces, or metallurgical works of any kind, and may carry on the business of shipping or forwarding agents for other companies having similar powers.

Application of
provisions of
38 V. c. 50.

4. The provisions of the Act passed in the 38th year of the reign of Her late Majesty, Chaptered 50, shall apply to the company and where the words "Municipal Council" occur, the same may be construed as Town, Township or County Council.

Aid by way
of bonus.

5. The company may receive exemptions, or aid in any form from any other corporation constituted by provincial authority and such exemptions, grant or aid shall be valid and binding in the same manner as if generally or specially mentioned in this Act.

Grant of
franchises,
bonuses,
guarantees,
etc.

6. Any Government, Municipality, Municipal Corporation, Town, Township or County Council may enter into agreements with the company to grant franchises, exemptions from taxation, aid in the form of donation of real estate, bonuses, guarantees of securities or otherwise.

Head office.

7. The head office of the company shall be located in the Town of Collingwood, in the County of Simcoe and Province of Ontario.

Provisional
directors.

8. The said Frank Foster Telfer, Sanford H. Lindsay and William T. Allan shall be the provisional directors of the company.

Number of
directors.

9. The number of directors shall not be less than three and not more than five.

Capital stock.

10. The capital stock of the company shall be \$500,000.

Bonds.

11. The company may issue bonds, debentures or other securities to the extent of \$25,000 per mile of railway constructed or under contract to be constructed.

Application of
6 Edw. VII.
c. 30.

12. The several clauses of *The Ontario Railway Act, 1906*, except subsection 2 of section 43, and of every act

in amendment thereof, in so far as they are applicable to the company hereby incorporated, shall be incorporated with and be deemed to be part of this Act, and shall apply to the said company and to the railway to be constructed by them except only so far as they may be inconsistent with the express enactments hereof, and the expression "this Act," when used herein, shall be understood to include the clauses of the said Railway Act and of every Act in amendment thereof so incorporated with this Act.

No. 163.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to incorporate The Hurontario
Railway Company.

(*Private Bill.*)

Mr. THOMPSON (Simcoe).

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

BILL


An Act to incorporate The Hurontario Railway Company.

WHEREAS Frank Foster Telfer, Wholesale Merchant; Preamble.
 Sanford H. Lindsay, Manufacturer; and William
 T. Allan, Barrister, all of the Town of Collingwood, in the
 County of Simcoe, have petitioned for an Act to incorporate
 a company to construct a railway to be operated by steam
 or electricity from a point at or near the Town of Colling-
 wood in the County of Simcoe, thence in a south-easterly
 direction through the Townships of Nottawasaga, Sunnidale,
 Flos, and Vespra to the Town of Barrie, *in the said County*
of Simcoe, thence to a point on the Canadian Northern Rail-
 way at or near the Town of Orillia, *in the said County of*
Simcoe; and whereas it is expedient to grant the prayer of
 the said petition;

Therefore His Majesty, by and with the advice and consent
 of the Legislative Assembly of the Province of Ontario,
 enacts as follows:—

1. *The said* Frank Foster Telfer, Sanford H. Lindsay and Incorporation.
 William T. Allan, together with such other persons, firms
 and corporations as shall hereafter become shareholders of
 the said company, are constituted a body corporate and
 politic by the name of "The Hurontario Railway Company,"
 hereinafter called "the Company."

2. The company is authorized and empowered to survey, Location of line.
 lay out, construct, complete, equip and maintain a railway
 to be operated by steam or electricity, or partly by one and
 partly by the other, from a point in, at or near the Town of
 Collingwood, *in the County of Simcoe*, thence in a south-
 easterly direction through the Townships of Nottawasaga,
 Sunnidale, Flos, and Vespra to the Town of Barrie, *in the*
said County of Simcoe, thence to a point on the Canadian
 Northern Railway at or near Orillia, *in the said County of*
Simcoe.

- Head office. **3.** The head office of the company shall be in the Town of Collingwood, in the *said* County of Simcoe.
- Provisional directors. **4.** The said Frank Foster Telfer, Sanford H. Lindsay and William T. Allan shall be the provisional directors of the company.
- Number of directors. **5.** The number of directors shall not be less than three and not more than five.
- Capital stock. **6.** The capital stock of the company shall be \$500,000.
- Bonds **7.** The company may issue bonds, debentures or other securities to the extent of \$30,000 per mile of railway constructed or under contract to be constructed.
- Application of
6 Edw. VII.
c. 30. **8.**  The provisions of *The Ontario Railway Act, 1906*, shall apply to the company and to the railway constructed or to be constructed by it.

No. 163.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to incorporate The Hurontario
Railway Company.

1st Reading, 23rd day of Feb., 1910.

*(Reprinted as amended by the Railway
Committee.)*

Mr. THOMPSON (Simcoe).

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty

BILL

An Act to amend The Power Commission Act, and the Power Commission Amend- ment Act, 1909.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. Section 23 of *The Power Commission Act*, being 77 Edw. VII.
Edward VII., Chapter 19, is hereby repealed and the sec- c. 19, s. 23,
tions of said Act numbered respectively 24 and 25, shall be
numbered respectively 23 and 24.

2. *The Power Commission Amendment Act, 1909*, being 77 Edw. VII.
9 Edward VII., Chapter 19, is amended by adding thereto c. 19,
the following sections: amended.

10a. Whenever the Commission desires to exercise the Compulsory powers, how to be exercised.
powers mentioned in the preceding section, the
Commission in respect thereof, shall have the
power and shall proceed in the manner pro- Rev. Stat. c. 37.
vided by *The Public Works Act*, where the
Minister of Public Works takes land or property
for the use of the Province, and the provisions
of the said Act shall *mutatis mutandis* apply.

10b. Wherever the Commission shall construct, erect, Liability of Commission where right of way not acquired.
maintain or operate transmission lines through,
over, under, along or across any land or premises
without acquiring a right of way in fee simple
of at least 60 feet in width, the Commission
shall be responsible, whether guilty of negligence
or not, for all damage caused to the crops,
orchards, vineyards, lands, fences, plantations,
buildings, contents of buildings, farm imple-
ments, live stock or other property of any kind
or nature whatsoever, or to the persons or own-
ers or occupiers or other persons who may be
lawfully upon any such land or premises, and

may be sued for the recovery of the amount of such damages, in any court of competent jurisdiction without obtaining the consent of the Attorney-General of Ontario.

Commission to pay damages recovered and collect same as cost of operating.

- 10c. It shall be the duty of the Commission forthwith to pay the amount of any final judgments obtained against it, and to collect the same from all the municipalities interested in the same proportion and in the same manner as the costs of operating, maintaining, repairing, renewing and insuring the works are now by law collectable.

No. 164

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend the Power Commission
Act, and the Power Commission
Amendment Act, 1909.

First Reading 18th day of February, 1910

Mr. MacKay,
(Grey).

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Ditches and Watercourses Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 2 of section 5 of *The Ditches and Watercourses Act* is amended by striking out the figures “\$1,000” in the 3rd line and inserting in lieu thereof the figures “\$1,500.”

Rev. Stat. c. 285
amended,
s. 5, subs. 2.
Limit of cost
of ditch.

No. 165

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend The Ditches and Water-
courses Act.

First Reading 18th day of February, 1910

Mr. FERGUSON
(South Simcoe).

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Act for The Improvement of Public Highways.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The County Council of the County of York may pass a by-law as provided in section 2 of *The Act for the Improvement of Public Highways* and may exercise the powers and perform the duties provided by the said Act with respect to that part of the county included in the Electoral Districts of East York and West York and may issue debentures for the purposes provided by the said Act.

County Council of York may adopt road system for part of County.

2. If the County Council passes a by-law under section 1 adopting the system of road improvement for the Electoral Districts of East York and West York only, the rate for the payment of any debentures issued for that purpose shall be levied and collected upon the property liable to assessment in the Electoral Districts of East York and West York, and no part of the cost of such system shall be borne by the municipalities included in the Electoral District of North York.

North York not to be included.

No. 166

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend the Act for the Improvement of Public Highways.

First Reading 18th day of February, 1910

Mr. LENNOX.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Assessment Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 3 of section 5 of *The Assessment Act* is amended by striking out the words “every college” in the third line, and the words “or any incorporated seminary of learning” in the fourth line. 4 Edw. VII.,
c. 23, s. 5
amended.

(2) The said section is further amended by adding the following as paragraph 3a:—

3a. The buildings and grounds of, and attached to, or otherwise bona fide, used in connection with and for the purposes of every seminary of learning maintained for philanthropic, religious, or educational purposes, the whole profits from which are devoted or applied to such purposes only, but such grounds and buildings shall be exempt only while actually used and occupied by such seminary. Seminaries of
learning.

2. Paragraph 19 of section 5 of the said Act as enacted by section 1 of the Act passed in the 6th year of His Majesty's reign, Chaptered 36, as amended by section 4 of the Act passed in the 8th year of His Majesty's reign, Chaptered 50, is further amended by striking out the figures \$1,000 in the fourth line, and substituting therefor the figures \$1,200, and by striking out the figures \$700 in the 6th line and substituting therefor the figures \$900. 4 Edw. VII.,
c. 23, s. 5.
par. 19
amended.

3. Clause (c) of subsection 1 of section 10 of the said Act is amended by striking out the words “where such land is occupied or used mainly for the purpose of its business” in the 6th, 7th and 8th lines of the said clause. 4 Edw. VII.,
c. 23, s. 210
subs. 1
amended.

4 Edw. VII.,
c. 23, s. 10,
subs. 1 cl. (e)
amended.

4.—(1) Clause (e) of subsection 1 of section 10 of the said Act is amended by striking out the words “or of a club in which meals or spirituous or fermented liquors are sold or furnished” in the 9th and 10th lines.

4 Edw. VII.,
c. 23, s. 10,
amended.

(2) The said section 10 is further amended by adding the following subsection after subsection 1:—

Clubs.

(1a) Every proprietary or other club in which meals or spirituous or fermented liquors are furnished, whether to members or others, shall be liable to a business assessment for a sum equal to 25 per cent. of the assessed value of the land occupied or used for the purposes of the club.

4 Edw. VII.,
c. 23, s. 10,
subs. 1. cl.
(e) amended.

5.—(1) Clause (e) of subsection 1 of section 10 of the said Act is amended by adding after the word “publisher” in the 9th line the words “except the publisher of a newspaper.”

4 Edw. VII.,
c. 23, s. 10,
subs. 1
amended.

(2) The said subsection 1 is amended by adding the following clause:

Publishers
of news-
papers.

(ff) Every person carrying on business as the publisher of a newspaper in a city, for a sum equal to 35 per cent., and in any other municipality for a sum equal to 25 per cent. of the said assessed value.

4 Edw. VII.,
c. 23, s. 10,
subs. 1
amended.

6.—(1) Subsection 1 of section 10 of the said Act is amended by adding the following clause:

Millers.

(gg) Every person carrying on the business of a flour miller in a mill producing on an average less than 50 barrels a day, for a sum equal to 35 per cent. of the said assessed value.

4 Edw. VII.,
c. 23, s. 10,
subs. 1 cl. (d)
amended.

(2) Clause (d) of the said subsection 1 is amended by adding at the beginning the words “Subject to the provisions of Clause (gg).”

4 Edw. VII.,
c. 23, s. 10a
repealed.

7.—(1) Section 10a of the said Act, as enacted by section 1 of the Act passed in the 7th year of His Majesty's reign, Chaptered 41, is repealed.

4 Edw. VII.,
c. 23
amended.

(2) The said Act is amended by adding the following as section 42a:—

Pipes, poles,
wires, etc.,
on boundary
lines.

42a. Except as provided by subsection 9 of section 14, where any structure, pipe, pole, wire, or other property is erected or placed upon, in, over,

under, or affixed to any highway forming the boundary line between two local municipalities, or so that such structure, pipe, pole, wire or property is in some places on one side and in other places on the other side of the boundary line, or is on a highway forming the boundary line between two local municipalities although it may deviate so as in some places to be wholly or partly within either of them, the same shall be assessed in each municipality for one-half of the whole assessable value in both municipalities taken together.

8. Section 10 of the said Act is amended by adding the following as Clause 7a. 4 Edw. VII.,
c. 23, s. 10,
amended.

(7a) Banks, trust, loan, insurance, railway, telegraph, telephone and express companies and any company having rights or powers upon the highway, shall not be deemed to carry on a mercantile or manufacturing business within the meaning of subsection 7. Banks, trust
and loan
companies,
etc.

9.—(1) Subsection 1 of section 24 of the said Act is amended by striking out the words "within the Province" in the sixteenth line and substituting therefor the words "in Canada." 4 Edw. VII.,
c. 23, s. 24,
subs. 1
amended.

(2) Subsection 2 of the said section is repealed and the following substituted therefor:— 4 Edw. VII.,
c. 23, s. 24,
subs. 2
repealed.

(2) A person may be resident in a municipality within the meaning of this Section notwithstanding occasional or temporary absence; or, Temporary
absence.

(a) Absence as a member of the permanent militia corps, enlisted for continuous service or on service as a member of the active militia; or,

(b) Absence as a student in attendance at an institution of learning in the Dominion of Canada.

Such absence shall not disentitle him to be entered on the assessment roll as a voter.

10.—(1) Subsection 1 of section 25 of the said Act is repealed and the following substituted therefor:— 4 Edw. VII.,
c. 23, s. 25,
subs. 1
repealed.

(1) No person shall be entitled to be marked or entered by the assessor in the assessment roll as a Students.

8 Edw. VII.,
c. 8.

voter under *The Ontario Election Act* in respect of residence in a municipality in which he is in attendance as a student at an institution of learning, if he has a place of residence in another municipality, and is entered or is entitled to be entered or could have been entered on the assessment roll thereof.

4 Edw. VII.,
c. 23, s. 25,
subs. 2
amended.

(2) Subsection 2 of section 25 of the said Act is amended by striking out the word "poor house" in the 7th line and substituting therefor the words "house of refuge," and by striking out all the words in the said subsection after the word "industry" in the 8th line.

4 Edw. VII.,
c. 23, s. 25,
subs. 3
repealed.

(3) Subsection 3 of section 25 of the said Act is repealed and the following substituted therefor:—

Persons
entitled to
make com-
plaints.

(3) Any person whose name is marked or entered on, or who is entitled to have his name marked or entered on the assessment roll for the municipality as a voter, shall have the right to complain to the Court of Revision to have his own name, or the name of any other person corrected in, entered on, or removed from the assessment roll, and the proceedings thereon, including the right of appeal from the Court of Revision, shall be the same as in the case of an appeal in respect of an assessment.

4 Edw. VII.,
c. 23
amended.

11. The said Act is amended by adding the following as section 25a:—

Names of
persons
entitled to
vote under
7 Edw. VII.,
c. 5 not to be
entered.

25a. No assessor or assessment commissioner for any city or town to which *The Manhood Suffrage Registration Act* applies, shall enter upon the assessment roll the name of any person who is not liable to assessment for taxes, and the letters "M. F." shall not be placed opposite the name of any person on the roll of any such city or town, unless such person is qualified to vote at municipal elections in such city or town, as well as at elections for the Assembly.

4 Edw. VII.,
c. 23, s. 33,
subs. 8
amended.

12. Clause (b) of subsection 8 of section 33 of the said Act is amended by striking out the figures "40" in the 6th line of the said clause, and substituting therefor the figures "41."

4 Edw. VII.,
c. 23, s. 36
repealed.

13. Section 36 of the said Act is repealed and the following substituted therefor:—

36.—(1) Subject to the provisions of this section, ^{Assessment of land.} land shall be assessed at its actual value.

(2) In assessing land having any buildings thereon, ^{Buildings.} the value of the land and buildings shall be ascertained separately, and shall be set down separately in columns 13 and 14 of the assessment roll and the assessment shall be the sum of such values. The value of the buildings shall be the amount by which the value of the land is thereby increased.

(3) The buildings, plant and machinery in, on or under mineral land, and used exclusively for winning minerals from the ground, or storing the same, ^{Buildings and minerals in mineral land not assessable.} and, subject to subsection 4, the minerals in, on or under such land, shall not be assessable.

(4) In no case shall mineral land be assessed at less ^{Minimum assessment of mineral lands.} than the value of other land in the neighbourhood used exclusively for agricultural purposes.

(5) The income from a mine or mineral work shall ^{Income from mines.} be assessed by, and the tax leviable thereon shall be paid to the municipality in which such mine or mineral work is situate. Provided that the assessment on income from each oil or gas well operated at any time during the year shall be at least \$20.

(6) Every person occupying mineral land for the purpose of any business other than mining shall be ^{Business assessment.} liable to business assessment as provided by section 10.

(7) Where in any deed or conveyance of lands heretofore or hereafter made the petroleum mineral ^{Petroleum Mineral Rights.} rights in such lands have been or shall be reserved to the grantor such mineral rights shall be assessed at their actual value.

14. Section 39 of the said Act is repealed and the following substituted therefor:— ^{4 Edw. VII., c. 23, s. 39 repealed.}

(1) Lands in a town or village held and used as a farm ^{Farm lands, etc., in towns and villages.} garden or nursery only, and in blocks of not less than five acres, by any one person, and not in immediate demand for building purposes, shall be assessed for the amount at which sales of such lands can be freely made, and where no sales can be reasonably expected during the current

year, such lands shall be assessed at their value for farming, gardening or nursery purposes, with such percentage added thereto as the situation of such lands reasonably calls for.

Assessment
in block.

- (2) Such lands though surveyed into building lots, if unsold as such, may be entered on the assessment roll as so many acres of the original block or lot, describing the same by the description of the block or by the number of the lot and concession of the township in which the same are situate, as the case may be.

Number and
description
of lot.

- (3) In such case the number and description of each lot comprised in each block shall be inserted in the assessment roll, and the provisions of section 127 shall apply.

Exemption of
farm lands
in towns
and villages
from assess-
ment for cer-
tain improve-
ments.

- (4) Where such lands are not benefited to as great an extent by the expenditure of moneys for and on account of public improvements of the character hereinafter mentioned in the municipality as other lands therein generally, the council of such town or village shall annually at least two months before striking the rate of taxation for the year, pass a by-law declaring what part of the said lands so held and used as farm lands only shall be exempt or partly exempt from taxation for the expenditure of the municipality incurred for water works, whether for domestic use or for fire protection or both, the making of sidewalks, the construction of sewers or the lighting and watering of the streets, regard being had in determining such exemption to any advantage, direct or indirect, to such lands arising from such improvements, or any of them.

Proviso.

- (a) Nothing in this subsection contained shall exempt or relieve any lands therein mentioned from the general rate for the payment of any debenture debt contracted before the 14th day of April, 1892, or renewed since the said date in whole or in part.

Persons
claiming
exemption
to notify
council.

- (5) Any person claiming such exemption in whole or in part shall notify the council of the municipality thereof within one month after the time fixed by law for the return of the assessment roll, and shall by some intelligible description indicate the land and quantity as nearly as may be in respect of which exemption is claimed.

- (6) Any person complaining that the said by-law does not exempt or sufficiently exempt him or his said farm lands from taxation as aforesaid, may within 14 days after the passing thereof notify the clerk of the municipality of his intention to appeal against the provisions of such by-law or any of them to the Judge of the County Court who shall have full power to alter or vary any or all of the provisions of the said by-law and determine the matter of complaint in accordance with the spirit and intent of the provisions of this section. Appeal from by-laws to County Judge
- (7) If the council refuses or neglects to pass a by-law under subsection 4, the person claiming the exemption may within 14 days after the expiration of the time fixed for passing such by-law, notify the clerk of the municipality of his intention to apply to the county judge to determine the extent to which such lands should be exempted under subsection 4, and the County Judge shall have full power to order and determine the extent of such exemption, if any, and his order shall have the same effect as a by-law. Application to judge in case of repeal or neglect to pass by-law.
- (8) The provisions relating to appeals from a Court of Revision to the County Judge and to the amendment of the assessment roll thereon, shall, so far as applicable, regulate and govern the procedure to be followed upon appeals and applications to the County Judge under this section and the amendment of the by-law thereon. Procedure upon appeals to County Judge.
- (9) Nothing in the last three preceding subsections contained shall be deemed to prevent or affect the right of appeal to the County Judge from the decision of a Court of Revision upon any appeal against an assessment. Appeals from Court of Revision not affected.
15. Section 40 of the said Act is repealed. 4 Edw. VII. c. 23, s. 40 repealed.
16. Section 46 of the said Act is amended by adding the following subsection:— 4 Edw. VII. c. 23, s. 46 amended.
- (1a) Such notice shall contain, written or printed on some part thereof, the name and post-office address of the clerk of the municipality or of the assessment commissioner, if any. Name of clerk on assessment notice.

4 Edw. VII.,
c. 23, s. 65,
subs. 19
amended.

17. Subsection 19 of section 65 is amended by striking out the word "further" in the 7th line and substituting therefor the words "from a day named by the Court."

4 Edw. VII.,
c. 23, s. 76
repealed.

18. Section 76 of the said Act is repealed and the following substituted therefor:—

Appeal to
Ont. Ry. and
Municipal
Board.

76.—(1) Where there is an appeal from any Court of Revision under section 68 to a Judge of the County Court of the County in which the assessment is made, and the person desiring to appeal has been assessed to an amount aggregating \$40,000, such person shall have the right to appeal from the Court of Revision to The Ontario Railway and Municipal Board.

(2) The Clerk of the municipality shall forthwith by registered post notify the secretary of such Board of all notices of appeals coming within the provisions of this section, which are from time to time served upon him, and the secretary shall arrange a day for the hearing of such appeals, and shall notify the clerk thereof, and the clerk shall immediately by registered post notify the persons appealing.

(3) Sections 68 to 75 and sections 77 and 78 shall apply to all appeals taken under this section, and such Board shall have the powers and duties which by the said sections are assigned to a Judge of the County Court.

(4) An appeal shall lie to the Court of Appeal from the decision of the Board, as provided by section 51 of *The Ontario Railway and Municipal Board Act, 1906*.

4 Edw. VII.,
c. 23
amended.

19. The said Act is amended by adding thereto the following section:—

Powers of
County Judge,
Court of
Revision, etc.,
as to
assessment.

78a It is hereby declared that the Court of Revision the County Judge, The Ontario Railway and Municipal Board, a Judge, or Judges of the Court of Appeal, have, and always have had, under the preceding sections of this Act, jurisdiction to determine not only the amount of any assessment, but also all questions as to whether any persons or things are or were assessable or are or were legally assessed or exempted from assessment under the provisions of this Act.

20. Section 112 of the said Act is amended by adding 4 Edw. VII., c. 23, s. 112 amended. after the figures "51" in the 11th line the following words, "or who has been assessed for business, but has not carried on business for the whole year, or who has been assessed for income from personal earnings and has not earned such income or has died during the year for which the assessment on such income was made."

21. Section 121 of the said Act is amended by striking 4 Edw. VII., c. 23, s. 121 amended. out the words "to have been due and payable on and from the 1st day of January in such year," in the last two lines, and substituting therefor the words "to have been in arrear on and from the 1st day of January in such year."

22. Section 127 of the said Act is amended by striking 4 Edw. VII., c. 23, s. 127 amended. out the words "which has subsequently been subdivided" in the 3rd and 4th lines.

23. Section 128 of the said Act is amended by striking 4 Edw. VII., c. 23, s. 128 amended. out the words "which has subsequently been divided" in the 3rd line.

24. Section 168 of the said Act is repealed. 4 Edw. VII., c. 23, s. 168 repealed.

25. Section 214 of said Act as enacted by section 19 of the Act passed in the 6th year of His Majesty's reign, Chaptered 36, is amended by striking out the words and figures "31st day of December" in the 2nd line and substituting therefor the words and figures "20th day of December."

26. Subsection 3 of section 20 of the said Act is repealed and the following subsection substituted:— 4 Edw. VII., c. 23, s. 20 amended.

(3) Any person who contravenes subsection 2 of this section shall incur a penalty not exceeding \$200.

27. Section 21 of the said Act is repealed and the following substituted therefor:— 4 Edw. VII., c. 23, s. 21 amended.

21.—(1) Any person who, having been duly required to deliver or furnish any written statement or information mentioned in the next preceding five sections, makes default in delivering or furnishing the same and any company which makes default in delivering the statement in writing in section 15 mentioned, shall incur a penalty not exceeding \$100 and an additional penalty of \$10 for each day during which default continues. Penalty for not furnishing information.

(2) Any person knowingly stating anything falsely in any such statement or in furnishing such information shall incur a penalty not exceeding \$200.

4 Edw. VII.,
c. 23, s. 52,
subs. 3
amended.

28. Subsection 3 of section 52 of the said Act is repealed and the following substituted therefor:—

Penalty for
inserting
wrongfully
names in
roll.

- (3) Any person who wilfully and improperly inserts or procures or causes the insertion of the name of a person in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent in any such case to give to a person not entitled thereto either the right or an apparent right to be a voter, or who wilfully inserts, or procures or causes the insertion of any fictitious name in the assessment roll, or who wilfully and improperly omits, or procures or causes the omission of the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount, with intent in any such case to deprive any person of his right to be a voter, shall incur a penalty not exceeding \$200, or shall be liable, in the discretion of the convicting justice, to imprisonment for any period not exceeding six months, or to both such penalty and imprisonment.

4 Edw. VII.,
c. 23, s. 64
amended.

29. Section 64 of the said Act is repealed and the following section substituted:—

Penalty for
failure to
attend as
witness.

64. Any person summoned to attend the Court of Revision or before a County Judge under the provisions of this Act as a witness who fails, without good and sufficient reason, to attend, having first been tendered compensation for his time at the rate of 75 cents per day and his proper travelling expenses if he resides more than three miles from the place of trial, or who having attended, or being present in court, refuses to be sworn, if required to give evidence, shall incur a penalty not exceeding \$25.

4 Edw. VII.,
c. 23, s. 79,
subs. 3
amended.

30. Subsection 3 of section 79 of the said Act is repealed and the following substituted therefor:—

- (3) For default in performance of his duties under this section, or under such by-law, the clerk of a municipality shall incur a penalty of not less than \$10 and not more than \$20.

Penalty.

4 Edw. VII.,
c. 23, s. 126
amended.

31. Section 126 of the said Act is repealed and the following section substituted:—

Penalty for
neglect to
preserve list
of lands in
arrear for
taxes.

126. Any clerk or assessment commissioner, as the case may be, of any municipality who neglects to preserve the said list of lands in arrear for

taxes, furnished to him by the treasurer, in pursuance of section 121, or to furnish copies of such lists, as required, to the assessor, or neglects to return to the treasurer a correct list of the lands which have become occupied, or built upon, as required by section 122, or any assessor who neglects to examine the lands entered on his list, and to make returns in manner hereinbefore directed, shall incur a penalty not exceeding \$200.

32. Section 197 of the said Act is repealed and the following section substituted:— 4 Edw. VII.,
c. 23, s. 197,
amended.

197. Any treasurer, assessor, clerk or other officer who refuses or neglects to perform any duty required of him by this Act, and no other penalty is imposed, shall incur a penalty not exceeding \$100.

33. Section 199 of the said Act is repealed and the following section substituted:— 4 Edw. VII.,
c. 23, s. 199,
amended.

199. Any clerk, treasurer, assessment commissioner, assessor or collector, or any assistant or other person in the employment of the municipality, acting under this Act, who makes an unjust or fraudulent assessment or collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts, or permits to be inserted therein the name of any person which should not be entered, or fraudulently omits, or allows to be omitted, the name of any person which should be entered, or wilfully omits any duty required of him by this Act, shall incur a penalty not exceeding \$200, or shall be liable, in the discretion of the convicting justice, to imprisonment for any period not exceeding six months, or to both such penalty and imprisonment. Penalty for
unjust or
fraudulent
assessment.

34. Section 200 of the said Act is repealed. 4 Edw. VII.,
c. 23, s. 200,
repealed.

35. Section 201 of the said Act is repealed and the following section substituted:— 4 Edw. VII.,
c. 23, s. 201
amended.

201. Any assessor of any township, village or ward, who neglects or omits to make out and complete his assessment roll for the township, village or ward, and to return the same to the clerk of such township or village, or of the city or town in which such ward is situated, or to the proper Penalty for
neglect to
make out
roll.

officer or place of deposit of such roll within the prescribed period, shall incur a penalty not exceeding \$200.

4 Edw. VII.,
c. 23, s. 10,
amended.

36. Section 210 of the said Act is repealed and the following section substituted:—

Penalty on
sheriff.

210. A sheriff who wilfully omits to perform any duty required of him by this Act shall be liable to a penalty not exceeding \$200.

4 Edw. VII.,
c. 23, s. 223
amended.

37. Section 223 of the said Act is repealed and the following section substituted:—

Tearing down
notices, etc.

223. Any person who wilfully tears down, injures or defaces any advertisement, notice or other document, which is required by this Act to be posted up in a public place for the information of persons interested, shall incur a penalty not exceeding \$20.

4 Edw. VII.,
c. 23, s. 224
amended.

38. Section 224 of the said Act is repealed and the following section substituted:—

224 Prosecutions for contraventions of this Act where a penalty or imprisonment is imposed, shall be had under *The Ontario Summary Convictions Act*.

4 Edw. VII.,
c. 23,
amended.

39. The said Act is amended by adding the following section:—

Right of
action for
damages
against
officer.

225a. In addition to the penalties and punishments provided for by this Act for a contravention of the provisions thereof, the person guilty of such contravention shall be liable to every person who is thereby injured for the damages sustained by such person by reason of said contravention.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Assessment Act.

First Reading 18th day of February, 1910.

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Landlord and Tenant's Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In this Act

Interpretation.

- (a) "Tenant" shall mean and include an occupant, a sub-tenant, under-tenant, and his and their assigns and legal representatives; "Tenant."
- (b) "Landlord" shall mean and include the lessor, owner, the person giving or permitting the occupation of the premises in question and the person entitled to the possession thereof, and his and their heirs and assigns and legal representatives; "Landlord."
- (c) "Judge" shall mean Judge of the County or District Court of the county or district in which such a distress as is hereinafter mentioned is made. "A Judge."

2. Where goods are distrained by a landlord for arrears of rent which he claims to be due to him, and the tenant disputes the right of the landlord to distrain in respect of the whole or any part of the goods, or disputes the amount claimed by the landlord, the tenant may apply to the Judge to determine the matters so in dispute, and the Judge may hear and determine the same in a summary way, and may make such order in the premises as he may deem just. Disputes as right to dis-train.

3. Where notice of such an application has been given to the landlord the Judge, pending the disposition of it by him, may make such order as he may deem just for the restoration to the tenant of the whole or of any part of the goods distrained, upon the tenant giving security, by payment into Court or otherwise as the Judge may direct, for the payment Order of Judge pending determination of dispute.

of the rent which shall be found due to the landlord and for the costs of the distress and of the proceedings before the Judge and of any appeal from his order, or such of them as the tenant may be ordered to pay.

Jurisdiction
of Judge.

4. The Judge shall have jurisdiction and authority to determine any question arising upon the application which the Court of which he is Judge has jurisdiction to determine in an action brought in that Court.

When Judge
to direct that
action be
brought or
issue tried.

5. Where the amount of the rent claimed by the landlord exceeds \$500 or where any question is raised which a County or District Court would not have jurisdiction to try in an action brought in such Court, the Judge shall not, without the consent in writing of the landlord, deal with the application summarily, but shall direct an action to be brought or an issue to be tried for the determination of the matters in dispute in any Court having jurisdiction to try the same in an action brought in that Court.

Interim order
for restoration
of goods on
security being
given, etc.

6. Where the Judge under the next preceding section directs an action to be brought or an issue to be tried, he shall have the like power as to the restoration to the tenant of the goods or of any part of them as is conferred by section 3, and where it is exercised the security shall be as provided in that section, except that, as to costs, it shall be not only for the costs of the proceedings before the Judge, but also for the costs of the action or issue, including any appeal therein or such of them as the tenant may be ordered to pay.

Costs of
proceedings.

7. The Court in which the action is brought or the issue is tried shall determine by whom and in what manner the costs of the action or issue and of the application to the Judge shall be borne and paid.

Entry of
judgment.

8. Judgment may be entered in accordance with the direction of the Court before which the action or issue is tried, made at or after the trial, and may be enforced in like manner as a judgment of the Court.

When decision
of judge to
be final.

9. Where the amount claimed by the landlord does not exceed \$100, the decision of the Judge shall be final.

When appeal
from Judge
to lie.

10. Where the amount claimed by the landlord exceeds \$100, an appeal shall lie from any order of the Judge made on an application to him under the provisions of section 2, by which the matters in dispute are determined, in like manner as if the same were a judgment of the Court of which he is Judge, pronounced in an action.

11. Where an action is brought or an issue is tried ^{Appeal when} there shall be the same right of appeal from the judgment ^{action brought} or ^{or issue tried.} as if the judgment had been pronounced in an action in the Court by which the judgment was pronounced.

12. Where the amount claimed by the landlord does not ^{Scale of costs.} exceed \$100 the costs of the proceedings before the Judge shall be on the Division Court scale, and where the amount claimed exceeds \$100 they shall be on the County Court scale.

13. Nothing in this Act shall take away or affect any ^{Other remedies of tenant.} remedy which a tenant may have against his landlord or require a tenant to proceed under this Act instead of by bringing an action of replevin or by an action claiming an injunction, but where instead of proceeding under this Act he proceeds by bringing an action of replevin or an action claiming an injunction, the Court in which the action is brought, if of opinion that it was unnecessarily brought and that a complete remedy might have been had by a proceeding under this Act, may direct the tenant although he succeeds to pay any additional costs occasioned by his having brought the action.

14. This Act shall come into force on the first day of ^{Commencement} September, 1910. ^{of Act.}

No. 168.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Landlord and
Tenant's Act.

First Reading 18th day of February, 1910.

Mr. Fox

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to incorporate the Niagara Falls, Welland and Dunnville Electric Railway.

WHEREAS Francis Ramsay Lalor, of the Town of Dunnville, in the County of Haldimand, Manufacturer; Franklin Buell, of the City of Buffalo, in the State of New York, Esquire; John Carlton Gardner, of the City of Niagara Falls, in the County of Welland, Engineer; George Arnold, of the Village of Ridgeville in the County of Welland, Agent; Frank Elam Misener, of the Township of Wainfleet, in the County of Welland, Farmer; George Hamilton Bugar, of the Town of Welland, in the County of Welland, Postmaster, and Hugh Alexander Rose, of the same place, Barrister-at-Law, have, by their Petition, prayed for an Act of Incorporation, under the name of "Niagara Falls, Welland and Dunnville Electric Railway Company," for the purpose of constructing and operating an electric railway, from a point in or near the City of Niagara Falls, in the County of Welland, through the Townships of Stamford, Thorold, Crowland, Town of Welland, the Townships of Humberstone and Wainfleet, in the County of Welland, the Townships of Moulton and Sherbrooke in the County of Haldimand, to a point in or near the Town of Dunnville, in the County of Haldimand, and a branch from some point on the Main line through the Townships of Wainfleet and Pelham to the Village of Fenwick, through the Townships of Pelham and Thorold to a point on the main line in the Township of Thorold; and whereas, it is expedient to grant the prayer of the said Petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said Francis Ramsay Lalor, Franklin Buell, John Carlton Gardner, George Arnold, Frank Elam Misener, George Hamilton Bugar, and Hugh Alexander Rose, and

Incorporation.

such other persons and corporations as shall hereafter become shareholders in the said Company, are hereby constituted a body corporate and politic under the name of "Niagara Falls, Welland and Dunnville Electric Railway Company."

Provisional
directors.

2. The said John Carlton Gardner, George Arnold, Frank Elam Misener, George Hamilton Bugar, and Hugh Alexander Rose, are constituted provisional directors of the Company.

Annual
meeting.

3. The date of the annual meeting of the shareholders shall be fixed by the By-laws of the Company.

Capital
stock.

4. The capital stock of the Company hereby incorporated, shall be \$200,000.

Head office.

5. The Head Office of the Company shall be at the Town of Welland, in the County of Welland.

Number of
directors

6. The Board of Directors of the Company shall consist of not less than five, nor more than nine persons.

Location of
line.

7. The said Company is authorized and empowered to survey, lay out, construct, complete, equip and maintain a railway with double or single tracks, to be operated by electricity, from a point in or near the City of Niagara Falls, in the County of Welland, through the Townships of Stamford, Thorold, Crowland, Town of Welland, the Townships of Humberstone and Wainfleet, in the County of Welland, the Townships of Moulton and Sherbrooke in the County of Haldimand, to a point in or near the Town of Dunnville, in the County of Haldimand, and a branch from some point on the main line through the Townships of Wainfleet and Pelham to the Village of Fenwick, through the Townships of Pelham and Thorold to a point on the main line, in the Township of Thorold.

Bonds.

8. The Company may issue bonds, debentures, or other securities to the extent of \$30,000 per mile of the Railway.

Application
of 6 Edw VII.,
c. 30.

9. The provisions of *The Ontario Railway Act, 1906*, shall apply to the said Company, and the Railway to be constructed by it.

No. 169

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to incorporate Niagara Falls, Welland and Dunnville Electric Railway









(*Private Bill.*)

Mr. FRASER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to incorporate The Niagara Falls, Welland and Dunnville Electric Railway Company.

WHEREAS Francis Ramsay Lalor, of the Town of Preamble. Dunnville, in the County of Haldimand, Manufacturer; Franklin Buell, of the City of Buffalo, in the State of New York, Esquire; John Carlton Gardner, of the City of Niagara Falls, in the County of Welland, Engineer; George Arnold, of the Village of Ridgeville in the *said* County of Welland, Agent; Frank Elam Misener, of the Township of Wainfleet, in the *said* County of Welland, Farmer; George Hamilton Burgar, of the Town of Welland, in the *said* County of Welland, Postmaster, and Hugh Alexander Rose, of the same place, Barrister-at-Law, have, by their petition, prayed for an Act of Incorporation, under the name of "*The Niagara Falls, Welland and Dunnville Electric Railway Company*," for the purpose of constructing and operating an electric railway, from a point in or near the City of Niagara Falls, in the County of Welland, through the Townships of Stamford, Thorold, Crowland, Town of Welland, the Townships of Humberstone and Wainfleet, in the *said* County of Welland, the Townships of Moulton and Sherbrooke in the County of Haldimand, to a point in or near the Town of Dunnville, in the *said* County of Haldimand, and a branch from some point on the main line  at or near Chambers Corners,  through the *said* Township of Wainfleet and  the Township of  Pelham  in the *said* County of Welland  to the Village of Fenwick, through the *said* Townships of Pelham and Thorold to a point on the main line  at or near Allanburgh,  in the *said* Township of Thorold; and whereas it is expedient to grant the prayer of the *said* petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Incorporation.

1. The said Francis Ramsay Lalor, Franklin Buell, John Carlton Gardner, George Arnold, Frank Elam Misener, George Hamilton Bugar, and Hugh Alexander Rose, and such other persons and corporations as shall hereafter become shareholders in the said Company, are hereby constituted a body corporate and politic under the name of "*The Niagara Falls, Welland and Dunnville Electric Railway Company.*"

Provisional directors.

2. The said John Carlton Gardner, George Arnold, Frank Elam Misener, George Hamilton Bugar, and Hugh Alexander Rose, are constituted provisional directors of the Company.

Annual meeting.

3. The date of the annual meeting of the shareholders shall be fixed by the By-laws of the Company.

Capital stock.

4. The capital stock of the Company shall be \$200,000.









Head office.

5. The Head Office of the Company shall be at the Town of Welland, in the *said* County of Welland.



Number of directors

6. The Board of Directors of the Company shall consist of not less than five, nor more than nine persons.



Location of line.

7. The Company is authorized and empowered to survey, lay out, construct, complete, equip and maintain a railway to be operated by electricity, from a point in or near the City of Niagara Falls, in the County of Welland, through the Townships of Stamford, Thorold, Crowland, Town of Welland, the Townships of Humberstone and Wainfleet, in the *said* County of Welland, the Townships of Moulton and Sherbrooke in the County of Haldimand, to a point in or near the Town of Dunnville, in the *said* County of Haldimand; and a branch from some point on the main line  at or near Chambers Corners,  through the *said* Township of Wainfleet and  the Township of  Pelham  in the *said* County of Welland  to the Village of Fenwick, through the *said* Townships of Pelham and Thorold to a point on the main line  at or near Allanburgh,  in the *said* Township of Thorold.

Bonds.

8. The Company may issue bonds, debentures, or other securities to the extent of \$20,000 per mile of the railway  constructed or under contract to be constructed. 

Application of 6 Edw VII., c. 30.

9. The provisions of *The Ontario Railway Act, 1906*,  in so far as they apply to railways to be operated by electricity,  shall apply to the Company, and the railway to be constructed by it.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to incorporate The Niagara Falls,
Welland and Dunnville Electric Rail-
way Company.

First Reading 25th day of Feb., 1910.

*(Reprinted as amended by the Railway
Committee.)*

Mr. FRASER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting The Toronto Suburban Railway Company.

WHEREAS the Toronto Suburban Railway Company Preamble. was incorporated by an Act passed in the 57th year of Her late Majesty's reign, Chaptered 94, intituled An Act to incorporate the Toronto Suburban Street Railway Company, Limited, and has by petition represented that the company has constructed and is now operating its railway in the City of West Toronto, formerly the Town of Toronto Junction, and surrounding municipalities; and that by an Act passed in the 63rd year of Her late Majesty's reign, Chaptered 124, the name of the company was changed to the Toronto Suburban Railway Company; and whereas by an Act passed in the first year of the reign of His Majesty, Chaptered 91, intituled An Act respecting the Toronto Suburban Railway Company, the company was authorized to extend its line of railway from its terminus at Lambton Mills, in the Township of York, in the County of York, to some point in the City of Hamilton, in the County of Wentworth; and whereas by an Act passed in the fourth year of the reign of His Majesty, Chaptered 94, the company was authorized to further extend its railway from a point in or near the City of Hamilton, in the County of Wentworth, to some point in or near the Town of Niagara Falls, in the County of Welland, with a branch from a point on the line of railway already constructed in or near the Village of Weston or some point between the village of Weston and the north limit of the Township of York, to the Village of Woodbridge, in the County of York, and also from a point on the line of railway already constructed in or near the Village of Weston or the Village of Lambton Mills, to the Town of Brampton, in the County of Peel, and also from a point on the line of railway thereby authorized in the Township of Thorold to the City of St. Catharines, in the County of Lincoln: and to the Town of Port

Colborne, in the County of Welland, and whereas the company has by its petition asked for authority to extend its line of railway from a point on its present authorized line in or near the Town of Brampton to some point in or near the City of Guelph, and for other purposes; and whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Extension
of line.

1. The company is authorized and empowered to equip, maintain and operate an extension of its line of railway from a point in or near the Town of Brampton, in the County of Peel, to some point in or near the City of Guelph in the County of Wellington, passing through or near the Townships of Chinguacousy in the County of Peel, and the Townships of Esquesing, Nassagaweya and the Towns of Georgetown and Acton in the County of Halton, the Townships of Erin, Eramosa, Guelph, Puslinch, in the County of Wellington, and to equip, maintain and operate such extensions.

Issue of
bonds, etc.

2. Notwithstanding anything contained in any of the Acts relating to the company, the company may issue from time to time bonds, debentures, perpetual or terminating debentures, stock or other securities, to the extent of \$30,000 per mile of its railway heretofore constructed or which may be hereafter constructed or under contract to be constructed.

Rights and
powers con-
ferred by
general or
special Acts
to apply to
extensions.

3. The rights, powers, privileges and franchises heretofore conferred upon the company by any general or special Act shall continue to apply to the said company, and to the extensions hereby authorized but nothing in this Act contained shall affect any agreement heretofore entered into between the company and any Municipal Corporation.

Application of
6 Edw. VII.
c. 30.

4. The provisions of *The Ontario Railway Act, 1906*, except where inconsistent with the provisions of this Act and of the said Acts passed in the 57th year of Her late Majesty's reign, Chaptered 94, the first year of His Majesty's reign, Chaptered 91, and the 4th year of His Majesty's reign, Chaptered 94, shall apply to the said company and the railway constructed or to be constructed by it.

No. 170.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting the Toronto Suburban Railway Company.

First Reading day of February, 1910

(*Private Bill.*)





Mr. DOWNEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting The Toronto Suburban Railway Company.



WHEREAS The Toronto Suburban Railway Company Preamble. was incorporated by an Act passed in the 57th year of Her late Majesty's reign, Chaptered 94, intituled An Act to incorporate the Toronto Suburban Street Railway Company, Limited, and has by petition represented that the company has constructed and is now operating its railway in that part of the City of Toronto formerly the City of West Toronto and surrounding municipalities; and that by an Act passed in the 63rd year of Her late Majesty's reign, Chaptered 124, the name of the company was changed to The Toronto Suburban Railway Company; and whereas by an Act passed in the first year of the reign of His Majesty, Chaptered 91, intituled An Act respecting The Toronto Suburban Railway Company, the company was authorized to extend its line of railway from its terminus at Lambton Mills, in the Township of York, in the County of York, to some point in the City of Hamilton, in the County of Wentworth; and whereas by an Act passed in the fourth year of the reign of His Majesty, Chaptered 94, the company was authorized to further extend its railway from a point in or near the City of Hamilton, in the County of Wentworth, to some point in or near the Town of Niagara Falls, in the County of Welland, with a branch from a point on the line of railway already constructed in or near the Village of Weston or some point between the village of Weston and the north limit of the Township of York, to the Village of Woodbridge, in the County of York, and also from a point on the line of railway already constructed in or near the Village of Weston or the Village of Lambton Mills, to the Town of Brampton, in the County of Peel, and also from a point on the line of railway thereby authorized in the Township of Thorold to the City of St. Catharines, in the County of Lincoln; and to the Town of Port

Colborne, in the County of Welland;  and whereas by an Act passed in the ninth year of His Majesty's reign, Chaptered 148, a certain mortgage by the said company was confirmed and the time for the completion of the extensions and branches of the said railway was extended;  and whereas the company has by its petition asked for authority to extend its line of railway from a point on its present authorized line in or near the Town of Brampton, *in the County of Peel*, to some point in or near the City of Guelph,  in the County of Wellington, passing through or near the Townships of Chinguacousy, in the said County of Peel, and the Townships of Esquesing, Nassagaweya and the Towns of Georgetown and Acton, in the County of Halton, and the Townships of Erin, Eramosa, Guelph and Puslinch, in the said County of Wellington,  and for other purposes; and whereas it is expedient to grant the prayer of the said petition;

• Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Extension
of line.

1. The company is authorized and empowered to equip, maintain and operate an extension of its line of railway from a point in or near the Town of Brampton, in the County of Peel, to some point in or near the City of Guelph in the County of Wellington, passing through or near the Township of Chinguacousy, in the *said* County of Peel, and the Townships of Esquesing, Nassagaweya and the Towns of Georgetown and Acton, in the County of Halton, *and* the Townships of Erin, Eramosa, Guelph, *and* Puslinch, in the said County of Wellington.





2.  Subsections (a), (b), (c), and (d) of Section 31, and Sections 32, 33, 34 and 35 of the Act passed in the first year of His Majesty's reign, Chaptered 91, are repealed. 

Issue of
bonds, etc.

3. Notwithstanding anything contained in any of the Acts relating to the company, the company may issue from time to time bonds, debentures, perpetual or terminating debenture stock or other securities, to the extent of \$30,000 per mile of its railway heretofore constructed or which may be hereafter constructed or under contract to be constructed.

Rights and
powers conferred by
general or
special Acts
to apply to
extensions.

4. The rights, powers, privileges and franchises heretofore conferred upon the company by any general or special Act shall continue to apply to the said company, and to the extensions hereby authorized but nothing in this Act contained shall affect any agreement heretofore entered into between the company and any municipal corporation.

5. The provisions of *The Ontario Railway Act*, 1906, ^{Application of} except where inconsistent with the provisions of this Act and ^{6 Edw. VII.} c. 30. of the said Acts passed in the 57th year of Her late Majesty's reign, Chaptered 94,  the 63rd year of Her late Majesty's reign, Chaptered 124,  the 1st year of His Majesty's reign, Chaptered 91, the 4th year of His Majesty's reign, Chaptered 94,  and the 9th year of His Majesty's reign, Chaptered 148,  shall apply to the said company and the railway constructed or to be constructed by it.

No. 170.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting The Toronto Suburban Railway Company.

1st Reading, 25th day of Feb., 1910.

*(Reprinted as amended by the Railway
Committee.)*

Mr. DOWNEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting the Registration of Instruments Relating to Lands.

SHORT TITLE, s. 1.	DISCHARGES OF MORTGAGES, ss. 62-67.
INTERPRETATION, ss. 2, 61, (6).	DISCHARGE OF LIEN NOTES, s. 68.
APPLICATION OF LAND TITLES ACT, s. 4.	BY-LAWS, ETC., OPENING ROADS OR CHANGING MUNICIPAL LIMITS s. 69.
Land in Provisional Judicial Districts, s. 5.	REGISTRATION AND ITS EFFECT, ss. 70-73.
REGISTRY DIVISIONS, ss. 5-7.	Unregistered instruments after grant from the Crown void against subsequent registered purchaser, s. 70.
REGISTRARS AND DEPUTIES: Appointment, security of, etc., ss. 8-16.	Actual notice, s. 71.
Duties, ss. 17-22.	Equitable liens invalid as against registered instruments; Tacking not allowed as against registered instruments, s. 72.
BOOKS OF OFFICE—	Powers of Attorney, s. 74.
To be furnished by County, ss. 23-25.	Wills to be registered within twelve months after death, s. 75.
Transfer of, upon alteration in limits of the Registry Division or removal of Registrar, ss. 26, 27.	Deeds on sales for taxes, s. 76.
Copies of, when too old for use, ss. 28-30.	Unauthorized alterations in entries, s. 77.
ABSTRACT INDEX, s. 31.	When instrument to be deemed to be registered, s. 78.
ALPHABETICAL INDEX, s. 32.	Subsequent advances on mortgages, s. 79.
INSTRUMENTS THAT MAY BE REGISTERED, ss. 33, 34.	REGISTRATION OF PLANS, ss. 80-88.
PROOF FOR REGISTRATION, ss. 35-45.	PROVISIONS FOR RE-REGISTRATION IN CASE OF LOSS, ETC., OF REGISTRY BOOKS, s. 89.
WHERE IN FOREIGN LANGUAGE, s. 46.	DEFECTS IN REGISTRATION, s. 90.
MANNER OF REGISTRATION, ss. 47-53.	FEES OF REGISTRARS, ss. 91-110.
REGISTRATION OF—	INSPECTOR OF REGISTRY OFFICES, ss. 111-114.
Crown grants, s. 54.	PENALTY FOR ALTERING BOOKS OR DOCUMENTS, s. 115.
Orders in Council, s. 55.	REPEAL, s. 116.
Wills, s. 56.	
Letters of Administration, s. 57.	
Notice of sale under mortgage, s. 58.	
Instruments executed before 1st Jan., 1866, ss. 59, 60.	
REGISTRATION OF INSTRUMENTS IN FULL WHEN MEMORIALS PREVIOUSLY REGISTERED, s. 61.	

His MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Registry Act*," R.S.O. 1897, c. 136, s. 1.

Interpretation.

2. In this Act,

"Certificate of amalgamation of loan corporations."

(a) "Certificates of Amalgamation of Loan Corporations" shall include a copy certified under the hand of the Registrar of Loan Corporations of the certificate of assent and declaration referred to in section 45 of *The Loan Corporations Act* and of any document mentioned in such certificate and a certificate issued for the purpose of registration under any Act of the Legislature authorizing or ratifying an agreement for the purchase and sale of the assets, or for the amalgamation of loan corporations. 63 V., c. 19, s. 3, *part*.

"County."

(b) "County" shall include a city, a Provisional Judicial District and any part of a county, district or city set apart for judicial or registration purposes.

"Inspector."

(c) "Inspector" shall mean the Inspector of Registry Offices.

"Instrument."

(d) "Instrument" shall include every Crown grant, and Order in Council of the Dominion and of Ontario, every deed, conveyance, mortgage, assignment of mortgage, certificate of discharge of mortgage, assurance, lease, bond, release, discharge, power of attorney, under which any such instrument is executed, every bond or agreement for the sale or purchase of land, will, probate of will, grant of administration, caution under *The Devolution of Estates Act* or renewal thereof, municipal by-law, certificate of proceedings in any Court, judgment or order of foreclosure, and every other certificate of judgment or order of any Court affecting any interest in or title to land, and certificate of amalgamation of loan corporations, every certificate of payment of taxes, granted under the corporate seal of the county, city, or town by the treasurer, every sheriff's and treasurers's deed of land sold by virtue of his office, every contract in writing, every commission and proceeding in lunacy, bankruptcy and insolvency, and every other instrument whereby land may be transferred, disposed of, charged, incum-

bered or affected in any wise, affecting land in Ontario.

- (e) "Land" shall include lands, tenements, heredita-^{Land."}ments and appurtenances and any estate or interest therein.
- (f) "Power of Attorney" shall include a revocation or ^{"Power of}alteration thereof and an appointment of a ^{Attorney."}substitute thereunder.
- (g) "Will" shall include codicil, probate of will and ^{"Will."}exemplification, and notarial or prothonotarial copy of a will, or of a probate of a will, and letters of administration with the will annexed, and a devise whereby land is disposed of or affected. R.S.O. 1897, c. 136, s. 2.

3. Subject to the provisions of *The Land Titles Act*, after ^{Application of} a certificate of the Master of Titles of the first registration ^{Land Titles} Act has been registered as prescribed by that Act, this Act shall cease to apply to the land. *See* R.S.O. 1897, c. 137, s. 18.

4. No instrument affecting land in a Provisional Judicial ^{Land in Pro-} District which has been patented since 31st December, 1887, ^{visional Judi-} or which shall hereafter be patented shall be registered under this Act. *See* R.S.O. 1897, c. 109, s. 76 (1).

5.—(1) The registry divisions now existing, as set forth ^{Registry Divi-} in Schedule "A," shall be continued. ^{sions and} ^{Registry} ^{offices.}

(2) Where a new county or district is formed the same shall constitute a registry division.

(3) Where a registry division includes the whole or part of the county or district town the registry office shall be situate therein and in other cases shall be situate at such place as the Lieutenant-Governor in Council shall direct.

(4) Where a registry office is in the opinion of the Lieutenant-Governor in Council inconveniently or unsafely situated, he may direct that a new registry office be erected on a new site to be approved by him. R.S.O. 1897, c. 136, ss. 3 and 8.

6. Subject to the provisions of subsection 9 of section 23, ^{Registration} every instrument affecting land in the City of Toronto with- ^{of instru-} out local description which may be registered in the general ^{ments without} register, shall be registered in the registry division of West ^{local descrip-} Toronto. ^{tion in To-} R.S.O. 1897, c. 136, s. 7.

County Councils to provide fire-proof offices and vaults.

7.—(1) For the safe-keeping and protection of all books, memorials, duplicates, and other instruments of whatever description and plans belonging to the office of Registrar, the council of every county where, at any time there are no safe and proper fire-proof offices and vaults provided by the council, or where hereafter any registry office is established, or where under the provisions of section 5 the Lieutenant-Governor in Council has directed a change of site, shall provide, furnish, maintain and keep in good repair a safe and fire-proof registry office, fire-proof vaulted, upon a plan and on a site to be approved by the Lieutenant-Governor in Council; and the council shall keep the registry office furnished with fuel and furniture and in good repair and properly heated, lighted, cleaned and ventilated.

(2) A town separated from a county for municipal purposes, and a city for which there is no separate registry office, shall bear a rateable proportion of the expense incurred under subsection 1, based on the assessment of all the municipalities within the territorial limits of the county. R.S.O. 1897, c. 136, s. 9; 1 Edw. VII., c. 15, s. 3.

Registrar to provide for vaults, etc., when directed by Inspector.

(3) Except where in this Act it is otherwise provided, the Inspector may in writing authorize the registrar, under the direction of an architect named by the Inspector to expend out of the proportion of the fees to which the county or city may then or thereafter be entitled under sections 104 and 106, in providing adequate fire-proof or metal fittings for the vault of the registry office or for the proper heating and ventilation of the vault so much as may be deemed by the Inspector to be necessary, and the amount so expended, including the architect's charge, shall be certified by the Inspector, and his certificate or a duplicate thereof shall be transmitted by the registrar, to the treasurer of the county or city, and shall be a discharge to the registrar of the amount so certified, as against the proportion of the fees then payable or to become thereafter payable by him. 1 Edw. VII., c. 15, s. 1; 7 Edw. VII., c. 29, s. 19.

Municipality may provide typewriting machines.

(4) The Corporation of any county or city charged with the duty of providing books for use in a registry office may provide typewriting machines for use in copying instruments in the registry books. *New.*

REGISTRARS.

Registrars, how appointed, etc.

8. There shall be a registrar for every registry division who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure. R.S.O. 1897, c. 136, ss. 10 and 11.

Registrar's seal.

9. Every registrar shall have a seal of office to be approved of by the Inspector. R.S.O. 1897, c. 136, s. 28, *part.*

10. The Lieutenant-Governor in Council may fix and determine the amount of the security to be furnished by each registrar and the amount of such security shall be not less than \$4,000, nor more than \$10,000. R.S.O. 1897, c. 136, s. 12.

Amount of security to be given.

As to security of Registrars in the Districts, see Chap. 109, sec. 79.

11. The Lieutenant-Governor in Council, upon the application of any county or city interested, or without such application, may require any registrar to furnish additional security in such form and for such an amount as the Lieutenant-Governor in Council determines to be sufficient to secure the due payment of any moneys payable by the registrar to the county or city. R.S.O. 1897, c. 136, s. 17.

Lieutenant-Governor may require Registrars to give security.

12. The registrar and his sureties shall be jointly and severally liable upon and to the extent of the security furnished to any aggrieved person to indemnify him against any damage or loss sustained by him, by or through the neglect or misconduct of the registrar or his deputy in the performance of the duties of his office, but this provision shall not exempt the registrar from any further responsibility to a person sustaining such damage or loss. R.S.O. 1897, c. 136, s. 19.

Liability of registrars and their sureties.

13. Every registrar, before he enters upon the duties of his office shall take and subscribe the oath, Form 1, which shall be transmitted by him to the Provincial Secretary. R.S.O. 1897, c. 136, s. 20.

Registrar's oath of office.

14.—(1) The registrar may by writing under his hand and his seal of office, nominate a deputy or deputies, who may perform all the duties required under this Act in the same manner and to the like effect as if done by the registrar; and a registrar may remove his deputy and appoint another in his place.

Appointment of deputies.

Removal

(2) In case of the death, resignation, removal from or forfeiture of office of the registrar, the deputy registrar, or if more than one, the senior deputy registrar, shall do and perform all and every act, matter, and thing necessary for the due execution of the office, until a new appointment of registrar is made, and if there is no deputy registrar the Crown Attorney shall be the registrar *pro tempore* until another person is appointed and the Crown Attorney on becoming registrar may appoint a deputy registrar.

Power of deputy in case of death or removal of registrar.

(3) The registrar *pro tempore* shall be answerable for the execution of the office during such interval, and any security

Temporary officer to be responsible.

ity given by the registrar shall be and stand as security for the due and faithful performance of the duties of his office by the registrar *pro tempore*. R.S.O. 1897, c. 136, s. 21.

Deputy's oath
of office.

15. Every deputy registrar before he enters on the duties of his office, shall take and subscribe the oath appointed to be taken by the registrar, or an oath to the like effect, which oath he shall forthwith transmit to the Provincial Secretary. R.S.O. 1897, c. 136, s. 22.

Registrars or
deputies, etc.,
not to act as
agents for
persons taking
securities
on real estate,
or in selling
land, or
advise as to
titles, etc., in
their Counties.

16.—(1) No registrar or deputy registrar or clerk in his office shall, directly or indirectly, act as the agent of any corporation, society, company, or person investing money and taking security on land within his county, nor advise, for fee or other reward, or otherwise, upon titles to land, or practise as a conveyancer, or act as an agent for the sale of land, within his county, nor, subject to the provisions of subsection 4, shall he carry on or transact within the registry office, any other business or occupation whatever.

(2) No registrar, deputy registrar or clerk in a registry office shall take any proceeding under a power of sale in a mortgage or other instrument affecting land, nor shall he personally or as a member of a firm carry on a loaning business or be in any way connected with a firm which transacts any business with the office of the registrar.

(3) No registrar, deputy registrar or clerk in a registry office shall practise as a barrister, solicitor, physician or surgeon.

(4) Subsection 3 shall not apply to registrars appointed before the 27th day of May, 1893, but a registrar appointed before that date whose annual net income from his office exceeds \$1,000 shall not carry on practice as a physician or surgeon during office hours other than a consulting practice, or out of office hours other than a consulting or office practice at his home. R.S.O. 1897, c. 136, s. 23.

DUTIES OF REGISTRARS.

Work in reg-
istry office to
be personally
supervised by
registrar.

17. The registrar shall reside within ten miles of his office, which shall be kept at the place appointed by the Lieutenant-Governor in Council and the work of the office shall be conducted and carried on under the direction and immediate supervision of the registrar. R.S.O. 1897, c. 136, ss. 23 (3) and 24.

Hours of
attendance at
office.

18.—(1) Except as hereinafter in this section provided the registrar or his deputy shall attend at his office from the hour of ten o'clock in the forenoon until four o'clock in the afternoon, every day in the year, holidays excepted,

and no instrument shall be registered on any holiday nor shall any instrument be received for registration except within the hours above named.

(2) The registrars for the East Division of the City of ^{Of registrars for Toronto, York, Wentworth, Carleton, Ottawa and London on Saturday.} Toronto, the West Division of the City of Toronto, the Registry Division of East and West York, the County of Wentworth, the County of Carleton, the City of Ottawa, and the City of London, or their respective deputies, shall attend at their offices on Saturdays, from the hour of ten o'clock in the forenoon until one o'clock in the afternoon and no longer, and no instrument shall be received for registration on that day except within the hours above named.

(3) From the 1st day of July to the 31st day of August, ^{Office hours of other registrars on Saturday during long vacation.} both days inclusive, none of the other registrars shall, after one o'clock in the afternoon on Saturdays, register any instrument, nor shall any instrument be received for registration, nor shall it be obligatory to attend at his office after that hour. R.S.O. 1897, c. 136, s. 26; 8 Edw. VII., c. 33, s. 36.

19.—(1) The registrar shall, when required, and upon being tendered his proper fees, make searches and furnish ^{Registrars to make searches and abstracts.} copies and abstracts of or concerning all instruments or memorials registered which mention any lot of land as described in the patent thereof from the Crown, or any lot described by number or letter on any registered plan subsequent to the registration of the plan, or any part of a lot where the same is clearly described and can be identified in connection with the chain of title, or has been as-hand of and concerning the parties to any such instruments registered, as may be requested of him in writing, if a writing is demanded by him; and he shall exhibit any original registered instrument, and also the books of the office ^{To exhibit originals of instruments, etc.} relating thereto when a personal inspection thereof is desired, and shall give copies and extracts certified under his hand of and concerning the parties to any of such instruments, or of the witnesses to the same, or any other particulars which may be required, but no registrar shall allow any such book or instrument to be taken out of his possession or custody. ^{To certify copies, etc.}

(2) Every abstract furnished by a registrar shall be commenced and certified to in the words following:—

Registry Office, County of

Abstract of title

I certify that the above (or the following) are correct extracts ^{Certificate of registrar on abstracts.} from the only instruments registered in this office which mention or refer to (*describe property sufficiently for identification*). This abstract does not purport to give entries from the General Register.

Dated at this day of 19, at the hour of

Registrar, or Deputy-Registrar. (L.S.)

R.S.O. 1897, c. 136, s. 27 (1), (2).

Fees to be stated on abstract.

(3) The fees for every abstract shall be stated on the face thereof and shall show the items making up the amount of such fees. R.S.O. 1897, c. 136, s. 118, paragraph 5, *part*.

If requested discharged mortgages and expired liens to be omitted from abstract.

(4) The registrar, when requested in writing to do so by the person requiring an abstract of title, shall omit from it mortgages which appear by the abstract index to be discharged and mechanics' liens, in respect of which an action has not been brought, and a certificate thereof registered as required by *The Mechanics' and Wage Earners' Lien Act*, or any other class of instrument mentioned in the request *New*.

Persons searching not to use ink for copying.

20. A registrar shall not permit any person other than his officers or employees to use ink or other indelible fluid or substance for the purpose of making copies of or extracts from an instrument, document, book, paper or record in the Registry Office, or of any matter therein contained. R.S.O. 1897, c. 136, s. 118, par. 2 *part*.

Non-liability for certain errors or omissions.

21. A registrar shall not be liable in respect of entries of instruments or errors or mistakes in the entries of instruments or omissions by any of his predecessors in office, nor for any defect or inaccuracy in any abstract or certificate arising from such error, mistake or omission, unless he had become aware or had knowledge of such error, mistake or omission, or unless such abstract or certificate shall be defective or inaccurate to the knowledge of the registrar or his deputy or the clerk by whom it is made or signed. R.S.O. 1897, c. 136, s. 27.

Registrar to furnish certified copies.

22.—(1) On request of any person the registrar shall furnish a certified copy under his hand and seal of office, of any instrument or memorial deposited, registered, or filed, and kept in his office.

Not bound to produce any papers, except on order of a Judge

(2) No registrar or deputy registrar shall be required to produce any instrument or document in his custody as registrar or deputy registrar, unless ordered by a Judge of one of the Courts of Ontario, which order shall be produced to the officer issuing the subpoena requiring such production, and shall be by him noted in the margin of the subpoena. R.S.O. 1897, c. 136, s. 28.

[*As to filing a certified copy in Court in lieu of original produced on subpoena, see The Evidence Act, sec. 48.*]

BOOKS OF OFFICE.

Treasurer to provide proper books.

23.—(1) The treasurer of the county or city shall provide a fit and proper registry book for each township, city, town, village and town plot laid out by the Crown, and all

index and other books required for the business of the office.

(2) All registry books shall be as nearly as may be of the like size and description as those heretofore furnished, and shall continue to be of one uniform size as nearly as practicable.

(3) From the time the books are so provided and received at the registry office, the registrar shall keep and cause to be used for that purpose, a separate registry book for and of each township, city, town, village and town plot laid out by the Crown, within his registry division.

(4) The registrar shall also keep a general registry book General registry book. herein called the general register for the whole of the Registry Division, which shall be used for the purposes hereinafter set forth, and in which book an alphabetical index of the names of all the parties mentioned by name in every instrument entered therein shall also be kept.

(5) When a registrar requires a new registry book, or New books. any other book for the use of his office, the same shall, on his application therefor, in writing, be furnished to him by the treasurer, and all books so furnished shall be paid for by the treasurer.

(6) All books so furnished, used and kept, shall be the property of His Majesty.

(7) The Inspector, when, for the despatch of business, he finds it necessary, may, by order in writing, permit more than one registry book to be in use at the same time for the same municipality.

(8) Where before the 7th day of April, 1896, wills had been recorded in the separate books of a registry division, but not in the general register when the same ought to have been recorded therein, the Inspector may, by order in writing, direct that an alphabetical index shall be prepared and kept of the names of all persons mentioned by name in such wills and designating the book or books and the pages thereof in which such wills are recorded, and the treasurer shall, for such index and the preparation thereof, pay to the registrar such sum as the Inspector may order in writing. Index of wills omitted from general registry book. R.S.O. 1897, c. 136, s. 29.

(9) The general register shall be used for record- General registry book, what to be used for. ing wills, probates, grants of administration, and powers of attorney in which there is a general devise or power affecting land without local description, and claims for lien under *The Mechanics and Wage Earners' Lien Act* against land which

constitutes the line of railway or right of way of a railway company, and also certificates of amalgamation of loan corporations. 62 V. (2), c. 16, s. 1; 63 V. c. 19, s. 1; 7 Edw. VII., c. 29, s. 3.

If the treasurer neglects to provide books.

24.—If the treasurer refuses or neglects to furnish any such book within thirty days after application therefor, the registrar may provide the same and recover the cost thereof from the municipal corporation of the county or city in default. R.S.O. 1897, c. 136, s. 30.

Registrar to certify books

25.—The registrar shall certify, Form 2, respecting each register or other book so furnished or provided. 7 Edw. VII. c. 29, s. 5.

Provision where territory attached to or new registry division formed.

26.—(1) Where from any cause territory not embraced in a registry division becomes part of it, or where a new registry division is established the registrar of the registry division from which such territory becomes detached shall deliver to the registrar of the registry division which it comprises or of which it becomes part

Certain books, instruments and plans to be transferred.

- (a) The registry books and all other books and indexes which have been kept according to law exclusively for such territory or any part of it;
- (b) The original memorials and duplicates of all instruments relating exclusively to land within such territory;
- (c) All maps of municipalities within such territory deposited according to law in his office;
- (d) An abstract index book of all instruments relating to land within such territory registered before separate registry books were kept for each township or place;
- (e) A proper registry book containing full and complete copies of all memorials and other registered instruments affecting such land which are not under the provisions of clause (b) required to be delivered;
- (f) Another property registry book containing copies of all wills and other instruments registered in a general register in which the names of any of the parties to them have been entered in the alphabetical index kept for any part of the territory;

(g) A copy of the alphabetical index attached to any such general register.

(2) The copies mentioned in clause (e) of the next preceding subsection shall be entered in the registry book in the same order in which they are entered in the original registry book, and the registrar shall write on the margin of such first mentioned book opposite to the entry of each memorial or instrument the number of it and the time at which the same was registered as appears by the indorsement thereon. Copies to be entered according to original order.

(3) Each registry book to be delivered shall have or be accompanied by an alphabetical index of names. Books to be indexed.

(4) The registrar shall carefully compare all entries made in the registry books which he is required to deliver with the original entries in the registry books in his office, and shall write and sign a certificate that he has done so in each book before delivering it. Comparing and certifying books.

(5) The registrar who receives any original memorial or instrument under the provisions of this section which is not copied in any registry book delivered to him shall cause the same to be copied in a proper registry book. Entering instruments not copied.

(6) A registrar who fails to perform the duties imposed on him by the preceding subsections of this section within six months after the territory is detached from his registry division, or within any extended period allowed by the Inspector under the provisions of subsection 7 shall incur a penalty not exceeding \$400, and may, also, in the discretion of the Court, be imprisoned for any period not exceeding one year. Penalty for neglect to deliver books, etc.

(7) The Inspector may extend such period of six months for a further period not exceeding six months. R.S.O. 1897, c. 136, ss. 32 and 33; 8 Edw. VII., c. 33, s. 34.

27.—Where a registrar is removed from or resigns his office, he shall forthwith deliver up all books, plans, instruments, memorials and indexes in his possession as registrar to the person who is appointed registrar in his stead, or to any other person who may be appointed in writing, by His Majesty's Attorney-General for Ontario to receive the same, and if the registrar refuses to do so, the Attorney-General may direct the sheriff of the county to seize and take immediate possession of the same wheresoever found, and the registrar so offending shall incur a penalty not exceeding Registrar removed or resigning to deliver up books to new registrar, etc.

Penalty
in case of
refusal.

\$2,000, and in the discretion of the Court may also be imprisoned for any period not exceeding one year. R.S.O. 1897, c. 136, s. 34.

When any
book becomes
unfit for fur-
ther use copy
to be made.

28.—(1) Where any book from age or use, is becoming obliterated or unfit for future use, the Inspector shall, by direction in writing under his hand, order such book to be re-copied in a book of the same description as that prescribed by section 23, so far as the same can be deciphered by examination thereof and of the original instruments or memorials relating thereto.

Original to be
preserved.

(2) Such book having the order of the Inspector inserted at the beginning of the book, and having the affidavit or declaration of the registrar or his deputy, at the end of the book, to the effect that the book so copied is a true copy of the original book of which it purports to be a copy, shall be accepted and received as the original book, and as *prima facie* evidence that the copy is a true copy of the original book, but the original book shall nevertheless, be carefully preserved.

Repairs of
books, maps,
etc.

(3) The Inspector may order any book which is out of repair to be repaired in such manner as he thinks necessary; and may order plans and maps deposited in any registry office to be copied, mounted or bound, and to be preserved in such manner as he thinks necessary.

Inspector may
order dupli-
cate or new
abstract in-
dexes.

(4) The Inspector may order as many counterparts or copies of any abstract index book to be made as he shall deem necessary for the public convenience, and may order new abstract indexes to be made when the indexes in use have become complicated or otherwise inconvenient. R.S.O. 1897, c. 136, s. 35; 62 V. (2), c. 16, s. 2.

Payment for
services under
ss. 26 and 28.

29. Subject to the provisions of section 30, the fees and expenses for services rendered under sections 26 and 28, shall be paid by the treasurer of the county; and a town separated from the county for municipal purposes and a city for which there is not a separate registry office shall pay to the county such equitable proportion thereof as the Inspector shall direct.
New.

Fees for pre-
paring plans,
etc., for muni-
cipalities.

30. The inspector may order the expenses of new plans and surveys and the registration thereof under the provisions of section 28, to be paid by the treasurer of any local municipality concerned, or in part by the county treasurer and in part by the treasurer of the local municipality, and the local municipality may, subject to the order of the Inspector, cause such expenses or part thereof to be levied by assessment

on all rateable property comprised in the portion of the municipality affected by such plan or survey. R.S.O. 1897, c. 136, s. 118, par. 9; 62 V. (2), c. 16, s. 19.

31.—(1) The registrar, in a book, Form 3, called the Abstract index of lots. "Abstract Index," shall keep entered under a separate and distinct head each separate lot or part of a lot of land as originally patented by the Crown, or as defined on any registered plan of the subdivision of such land into smaller sections or lots.

(2) Every instrument registered on and after the first day of January, 1866, which mentions such parcel or lot of land or other subdivision, the names of every party to such instrument and the nature of it, the registration number for each municipality in which land mentioned therein is situate, and the day, month, and year, of its registration, the consideration of mortgage money mentioned in it, and such a description of the land therein mentioned as will readily identify its location, shall, in addition to all entries by law required, be entered by the registrar in regular order under the proper heading of each separate parcel or lot of land. R.S.O. 1897, c. 136, s. 37.

32. Every registrar shall also keep, for each township, Alphabetical index of names for each locality. city, town, and village, an alphabetical index of names, Form 4, exhibiting in columns the number of each instrument, the names of the grantors, and the names of the grantees. R.S.O. 1897, c. 136, s. 37.

INSTRUMENTS THAT MAY BE REGISTERED.

33.—(1) Except as provided by subsection 9 of section 23, no instrument which affects land without local description, shall be registered unless the instrument when offered for registration, in addition to the ordinary proofs for registration, has attached to it a statutory declaration by one of the parties to the instrument or by his attorney under registered power of attorney or by the heirs, executors or administrators of such party, to the effect that the instrument affects land within the county, and giving a local or general description of such land, sufficient to enable the same to be traced or ascertained by a surveyor, and thereupon such instrument shall be registered in the proper separate registry book and particulars thereof entered in the abstract index and in all other books in the same manner as if the instrument itself had contained the local description of the land. Instruments affecting lands without local description.

(2) Where an instrument affecting land without local description is, under this section, recorded in the separate

registry books, it may be further recorded and entered therein so as to affect other land by local description, by the registration of a statutory declaration, Form 15, to be made by any of the persons in this section mentioned.

Registration of instruments in general register and separate registry books.

(3) Where an instrument has been or is recorded in the general register, particulars thereof may be recorded in the separate registry books by the registration of a like statutory declaration.

Registry of statutory declaration as to lands affected.

(4) Such last-mentioned statutory declaration shall be recorded in the proper registry books, and particulars thereof entered in the abstract index and in all other books in the same manner as upon the registration of an instrument which affects land by local description.

Who may make declaration for a corporation.

(5) Any statutory declaration in this section mentioned may, where one of the parties to an instrument is a corporation, be made by an officer thereof, or where one of the parties entitled to make a declaration hereunder is absent from Ontario, the declaration may be made by his solicitor. 62 V. (2); c. 16, s. 1; 63 V. c. 19, ss. 1, 2.

Meaning of "local description."

(6) In this section "local description" shall mean a local or general description of land sufficient to enable the same to be traced or ascertained by a surveyor. 7 Edw. VII., c. 29, s. 3.

Instruments which may be registered.

34. Except as herein otherwise provided and subject to the provisions of the next preceding section, all instruments mentioned in section 2 may be registered. R.S.O. 1897, c. 136, s. 38.

(2) This section shall not extend to lease for a term not exceeding seven years, where the actual possession goes along with the lease; but it shall extend to every lease for a longer term than seven years. R.S.O. 1897, c. 136, s. 39.

Proof for registration.

35.—(1) An instrument other than a will, grant from the Crown, Order in Council, by-law or other instrument under the seal of any corporation, certificate of judicial proceedings or an instrument which may be registered by deposit of a certified copy shall not be registered unless accompanied by an affidavit, Form 5, of a subscribing witness as to the execution of the instrument by each party who appears to have executed the same, setting forth the name, place of residence, addition, occupation or calling of the witness, and deposing to—

(a) The execution of the original and of the duplicate, if any, by the party to whose execution thereof he is a witness;

(b) The place of execution by such party;

(c) That he knows that the person who executed the instrument in his presence is the party to the instrument as to whose execution thereof he deposes;

(d) That he is a subscribing witness to the instrument.

(2) The affidavit shall be made on or securely attached to the instrument. R.S.O. 1897, c. 136, ss. 40, 41 and 42; 7 Edw. VII., c. 29, s. 6.

(3) An instrument may be registered notwithstanding that the Christian name or names of the subscribing witness making the affidavit is or are only set forth therein by initials or abbreviation, and not in full. R.S.O. 1897, c. 136, s. 45. Name of witness need not be set forth in full in affidavit.

(4) The proof of the execution of an instrument made before the day this Act comes into force, which was sufficient proof for registration before that day, shall be sufficient proof for registration under the provisions of this Act. *New.*

36. An instrument, not purporting to convey the land therein mentioned, but which in its nature is, or purports to be given as a security for the payment of a debt or liability incurred by the person executing the same in respect of a purchase or delivery of any goods or in respect of an advance or loan of money, shall not be registered unless the affidavit of execution, Form 6, states that the instrument was read over and explained to the person executing the same, and that he appeared perfectly to understand the same, and was informed that it might be registered as an incumbrance on his land. R.S.O. 1897, c. 136, s. 43. Affidavit of execution in case of instruments given in respect of purchase or delivery of goods.

37.—(1) Every affidavit made under the authority of this Act shall be made before the registrar or deputy registrar of the registry division in which the land lies, or before some person authorized by law to take affidavits in or for use in Ontario. Before whom to be sworn in Ontario.

(2) Where an affidavit of execution is made out of Ontario before a person who has not an official seal, it shall be sufficient for him so to certify. R.S.O. 1897, c. 136 s. 46; 7 Edw. VII. c. 29, s. 7.

[See *The Interpretation Act*, s. 20, and *The Evidence Act*, s. 38.]

Affirmation or declaration in certain cases.

38. The proof may be by affirmation or declaration, when by the law of the country where the proof is made an affirmation or declaration may be substituted for an affidavit. R.S.O. 1897, c. 136, s. 48.

Parties not to take affidavits.

39. No person authorized to take affidavits shall take an affidavit of the execution of an instrument to which he is a party; nor shall such an affidavit be taken from a witness, unless the witness has subscribed his name in his own handwriting as such witness. R.S.O. 1897, c. 136, s. 49.

Witnesses to sign.

Witnesses compellable to make affidavit.

40. Every subscribing witness shall be compellable, by order of a Judge of the Supreme Court or of a County or District Court, to make affidavit or proof of the execution of an instrument for the purpose of registration, and to do all other acts necessary for that purpose, upon being paid or tendered his reasonable expenses therefor. R.S.O. 1897, c. 136, s. 47.

Witnesses insane, absent, etc.

41. Where the witnesses to an instrument are dead or are out of Ontario, or have become insane, idiotic, imbecile, or of unsound mind or understanding, and whether so found by inquisition or not, or where an instrument, not by law requiring an attesting or subscribing witness thereto, has been executed without an attesting or subscribing witness, or if it is proved that the place of abode or residence of such first mentioned witnesses is unknown, any person who is or claims to be interested in the registration of the instrument, may make proof before any Judge of any County or District Court, of the execution of the instrument, and upon a certificate, Form 7, being endorsed on the instrument and signed by the Judge, the registrar shall register the instrument and certificate. R.S.O. 1897, c. 136, s. 50.

Seal of Court or seal of Corporation with signature of officer to suffice for registration.

42. The seal of a Court of Record affixed to an instrument, of itself, and the seal of a corporation affixed to an instrument with the signature of the secretary, manager, or attorney or presiding officer thereof, shall be sufficient evidence for the purpose of registration, of the due execution of the instrument by the Judge, or the officer of the Court signing the same, or by the corporation. R.S.O. 1897, c. 136, s. 51; 63 V. c. 19, s. 4.

Judgment affecting lands may be registered.

43. Every judgment or order affecting land may be registered in the registry office of the registry division in which the land is situate, on a certificate signed by the proper officer of the Court setting forth the substance and effect of the judgment or order, and the land affected thereby. R.S.O. 1897, c. 136, s. 52.

[*As to registering and vacating certificates of lis pendens, see Judicature Act, Cap. 51, secs. 97 to 100.*]

44.—(1) Where an instrument is registered, the registrar shall deliver a certified copy or copies thereof as may be required of him, and of all the documents connected with or relating to the same, under his signature and seal of office, and in his certificate he shall state the time, place and other particulars of registration, and that the copy which he so delivers is a true copy of the instrument, and of all the other documents connected with or relating to the same of which they respectively purport to be copies. R.S.O. 1897, c. 136, s. 53.

Registrar to deliver certified copy of registered instruments.

(2) Every such certified copy may be registered in any other registry office, by deposit thereof, without production of the original instrument, and without proof other than the production of the copy so certified. R.S.O. 1897, c. 136, s. 54.

Registration of certified copy.

(3) Where an instrument is deposited in an office of Land Titles, or is registered in the office of the Clerk of a County or District Court, a copy thereof certified by the officer in whose office it is deposited or registered, may be registered in any registry office in the same manner as a copy of an instrument certified by a registrar. R.S.O. 1897, c. 136, s. 55.

(4) A power of attorney or other instrument conferring authority upon an officer or person to act for an incorporated company, executed by the company and deposited in the office of the Provincial Secretary, may be registered by the deposit of a copy thereof certified by the Provincial Secretary or his Deputy or Assistant and without production of the instrument or proof of the execution thereof. See 8 Edw. VII., c. 33, s. 35.

Registration of powers of attorney deposited in land titles offices.

[*As to evidence by certified copy, see The Evidence Act, ss. 46 and 47.*]

45. A notarial copy of an instrument executed in the Province of Quebec, the original of which is filed in a notarial office according to the law of Quebec, and a prothonotarial copy of an instrument executed in Quebec may be registered and shall be treated under this Act for all purposes as if it were the original instrument, and such notarial or prothonotarial copy with the seal of the Notary or Prothonotary attached, shall be registered without any other proof of the execution of the original thereof. R.S.O. 1897, c. 136, s. 58.

Registration of notarial copies of instruments executed in Quebec.

INSTRUMENT IN FOREIGN LANGUAGE.

Registering
instruments
in foreign
languages.

46. Where an instrument or an affidavit of execution is written wholly or in part in a language other than English, there shall be produced with the instrument or the affidavit of execution a translation into English, together with an affidavit by the translator, stating that he understands both languages and has carefully compared the translation with the original, and that the same is in all respects a true and correct translation, and the registrar shall not enter the instrument or affidavit in the language in which it is written, but shall copy from the translation. R.S.O. 1897, c. 136, s. 59.

MANNER OF REGISTERING.

Generally.

Instruments
to be re-
gistered in
full unless
otherwise pro-
vided.

47. Unless otherwise provided every instrument which may be registered under this Act shall be registered upon and by delivery to and deposit with the registrar of the instrument or of a duplicate or other original part thereof with all necessary affidavits and the same shall be recorded at full length in the proper book, including every certificate and affidavit accompanying it, except registrar's certificates. R.S.O. 1897, c. 136, s. 60.

Mortgages
not registered
in full.

48.—(1) When a mortgage has endorsed upon it the words "not to be recorded in full," the mortgage shall not be copied into the registry book.

(2) The mortgage shall be numbered as other instruments are required to be numbered in the registry book in its proper order, and the marginal note made as required by section 53, and the registrar shall at the time of the registration enter opposite the number in the registry book the words "Mortgage not recorded in full" and shall also give the date and names of the parties to the mortgage. R.S.O. 1897, c. 136, s. 61 (1-2).

Fee on
registration.

(3) The fee payable for registration not including more than four distinct parcels of land, having a separate heading in the abstract index, shall be \$1, and for each additional parcel requiring entry to be made under a separate heading in the abstract index, five cents.

Fee on regis-
tration of
mortgage not
registered in
full.

(4) Where the mortgage embraces two or more parcels of land situate in different municipalities in the same registry division, there shall be paid a further fee of twenty-five cents

for each municipality after the first. R.S.O. 1897, c. 136, s. 61 (3); 62 V. (2), c. 16, s. 3.

(5) After the registration of the mortgage, the registrar, upon the application of any person claiming to be interested in the mortgaged land, and upon payment of the prescribed fees, less the amount already paid for registration, shall cause such mortgage to be recorded in full in the registry book. R.S.O. 1897, c. 136, s. 61 (4). Subsequent registry in full.

(6) The registrar shall indicate in the abstract index in the case of the registration of a mortgage endorsed "Not to be recorded in full," that the same has not been recorded in full and where it has afterwards been recorded in full under the provisions of subsection 5, the registrar shall note in the abstract index opposite the entry, "subsequently recorded in full," giving the date of recording and the number and page of the registry book. 62 V. (2), c. 16, s. 4. Entry in abstract index where mortgage not registered in full.

(7) In this section the word "mortgagee" shall include the assignee of a mortgage and a person obtaining any security coming within the terms of section 36, and the word "mortgage" shall include an assignment of a mortgage and an agreement to extend the time for payment of a mortgage or any such security. 5 Edw. VII., c. 13, s. 11. "Mortgagee" and "mortgage."

49.— (1) No instrument purporting to be signed or executed by any person by attorney shall be registered unless at or before the time of registration, the original power of attorney, or a copy thereof certified for registration, is registered in the same registry office, but when such power of attorney or a certified copy thereof cannot be produced, proof may be made before a judge of any County or District Court of the execution of the instrument and upon a certificate, Form 7, being endorsed on the instrument and signed by the judge that he is satisfied by the proof adduced of the due execution of the instrument the registrar shall register the instrument and certificate. Registration of power of attorney when instrument executed by attorney.

(2) Where an instrument, signed or executed by any person by attorney, is registered, the registrar shall enter a note of the fact of such signature or execution by attorney, giving the name of the attorney, on the abstract index and on all abstracts of title thereafter furnished by him relating to the land affected by the instrument. R.S.O. 1897, c. 136, s. 62. Special entry to be made when instrument executed by attorney.

(3) Subsection 1 shall not apply to instruments purporting to be executed by attorneys or commissioners for the Canada Company, the Trust and Loan Company of Canada, the Exception.

Scottish Ontario and Manitoba Land Company, the North British Canadian Investment Company, the North of Scotland Canadian Mortgage Company, Limited, or the Scottish American Investment Company. 62 V. (2), c. 16, s. 5; 63 V. c. 19, s. 5.

Instrument in two or more parts.

50. Where an instrument in two or more original parts is registered the registrar shall endorse upon each of such parts a certificate of the registration, Form 8, and any part so certified shall be received as *prima facie* evidence of the registration of the instrument and of the due execution of the same. R.S.O. 1897, c. 136, s. 63.

Instruments relating to several lots in different localities.

51. Where an instrument includes parcels of land situate in different municipalities in the same registry division it shall only be necessary to furnish the instrument or one original part of the instrument, with an affidavit of its execution, and the instrument and affidavit shall be copied into the registry book for each municipality or place wherein any of the land therein mentioned is situate, and the registrar shall make the necessary entries and certificates. R.S.O. 1897, c. 136, s. 64.

Copying into registry book.

Filing instrument and affidavit.

Certificate and its effect.

52.—(1) When an instrument is registered the registrar shall make an entry thereof in the abstract and alphabetical index books, and record the instrument in the registry book, in the order in which it is received, and file the same with the affidavit of execution and any other affidavit or certificate accompanying it, and shall endorse on every such instrument and upon every duplicate or other original part of it a certificate, Form 8, and shall therein mention the year, month, day, hour and minute in which the instrument was registered, stating in what book the same has been recorded, and the registration number, and shall sign the certificate, which shall be allowed and taken in all Courts as evidence of the respective registries.

Registrar to see that all copies in registers are correct.

(2) The registrar shall see that all copies of instruments in the registry books are true copies, and he or his deputy or clerk shall certify all such copies by writing "examined (date) certified true copy" in the margin opposite each copy in the book, and appending his initials.

(3) When a registry book is completed, the registrar, his deputy or clerk, shall at the end thereof show by statutory declarations that the copies contained in such book and certified by him, are true copies of the original instruments of which they purport to be copies. R.S.O. 1897, c. 136, s. 66.

53. Every page of the registry book, and every instrument recorded therein, shall be numbered, and the year, month, day, hour and minute of registration shall be entered in the margin of the registry book, Form 9, and the entry shall be signed by the registrar or his deputy. R.S.O. 1897, c. 136, s. 67. Pages and instruments to be numbered.
Minute of registration in margin.

Crown Grants.

54. Grants from the Crown shall be registered by producing the grant or an exemplification thereof with a true copy thereof with an affidavit verifying such copy, and the copy shall be deposited with the registrar, and the correctness of it shall be verified by the registrar or his deputy. R.S.O. 1897, c. 136, s. 68. Crown grants.

Orders in Council.

55. Orders in Council shall be registered by depositing a copy of the Order certified by the Clerk of the Council. R.S.O. 1897, c. 136, s. 69. Orders in Council.

Wills.

56.—(1) A will shall be registered.

(a) By the production of the original will and the deposit of a true copy thereof with an affidavit verifying such copy and with an affidavit sworn to by one of the witnesses to the will proving the due execution thereof by the testator, or Registration of wills.

(b) By the production of probate or letters of administration with the will annexed, or an exemplification or certified copy thereof, under the seal of any Court in Ontario, or in Great Britain and Ireland, or in any British province, colony, or possession, or in any foreign country having jurisdiction therein, and by depositing a true copy of the probate, letters of administration, or exemplification or certified copy with an affidavit verifying such copy. R.S.O. 1897, c. 136, s. 70 (1); 7 Edw. VII., c. 29, s. 8.

(2) The correctness of the sworn copy shall be verified by the registrar or his deputy. *New.*

(3) Where a will is registered by the production of the original will, the affidavit of the subscribing witness or some other person shall state that the testator is dead. R.S.O. 1897, c. 136, s. 70. Proof of testator's death.

(4) Unless with the consent in writing of the Treasurer of Ontario, an original will or an exemplification or certified copy of probate or letters of administration with the will annexed under the seal of any Court in Great Britain and Ireland or in any British province, colony or possession or in any foreign country, having jurisdiction therein, shall not be registered under this section unless accompanied by an affidavit of the executor or administrator or his solicitor or agent or of the beneficiary producing such will or the exemplification or certified copy showing that a statement has been filed with the Surrogate Registrar similar to that required by section 11 of *The Succession Duty Act*, and such affidavit shall be deposited with the registrar. 5 Edw. VII., c. 13, s. 12.

9 Edw. VII.,
c. 12.

Letters of Administration.

57. Letters of administration which under *The Devolution of Estates Act* affect land, shall be registered in the same manner as a probate of a will. R.S.O. 1897, c. 136, s. 71.

Registration
of letters of
administra-
tion.
Rev. Stat.
c. 127.

Notice of Sale under Mortgage.

58.—(1) A notice of sale of land under the provisions of *The Mortgages of Real Estate Act*, and a notice of exercising the power of sale contained in any mortgage shall be registered in the same manner as an instrument affecting land, but it shall not be necessary to record the notice or the affidavit or declaration of service attached thereto in the registry book.

Registration
of notice of
sale.

Rev. Stat.
c. 121.

(2) The affidavit or declaration shall be made by the person who served the notice, and shall prove the time, place and manner of such service, and that the copy delivered to the registrar is a true copy of the notice served.

Proof for
registration.

(3) A copy of the registered notice and affidavit or declaration certified under the hand and seal of office of the registrar shall be *prima facie* evidence of the service of the notice as stated in the affidavit of declaration. R.S.O. 1897, c. 136, s. 72.

Certified copy
to be
evidence.

(4) Where the person who served the notice is dead or out of Ontario, or where it is proved to the satisfaction of a Judge of a County or District Court, that the place of abode of such person is unknown, or that he is incapable of making an affidavit or declaration of service or where service of such notice has been or is duly admitted any person who is or who claims to be interested in the registration of the

Proof of
notice of sale
under mort-
gage.

notice may make proof before the judge of the service of the notice, and upon a certificate of such judge endorsed on or attached to the notice and signed by him to the effect that from the proof adduced by the person producing the proof, naming him, he is satisfied of the due service of the notice, the registrar shall register the notice and certificate. 62 V. (2), c. 16, s. 6, *part*; 63 V., c. 19, s. 6.

(5) Where the notice cannot be produced to be registered any person who is or who claims to be interested in the registration of the notice may make proof before the judge of the service thereof, and of the inability to produce the same and upon depositing a certificate of such judge to the effect that, from the proof adduced by the person producing the proof, naming him, he is satisfied of the due service of the notice upon the person served, naming him, and that the same cannot be produced the registrar shall register the certificate, and a copy of such certificate under the hand and seal of the registrar shall be *prima facie* evidence of the facts therein stated.

Where notice of sale lost and cannot be produced.

(6) Where a notice of sale or a certificate of a judge under subsections 4 or 5 has been registered, the same may be registered in any other registry office by depositing a copy thereof, certified in the manner provided by section 44. 63 V., c. 19, s. 7.

[As to Registration of Orders and Judgments for Ali-
mony, see Cap. 51, sec. 35; as to Registration of Notice of
Seizure by Sheriff of a Mortgage, see The Execution Act.]

Instruments executed before the 1st January, 1866.

59. The registration of an instrument executed before the 1st day of January, 1866, may be made through a memorial or by certificate or otherwise, as provided by the law in force before that date. R.S.O. 1897, c. 136, s. 73.

Registration of instruments executed before 1st Jan., 1866, etc.

60. The proof that would before the first day of January, 1866, have been sufficient for the registration of an instrument executed before that date, shall be sufficient for the registration hereafter of any such instrument, but the instrument shall be recorded at full length, and the memorial and affidavit shall be deposited with the registrar in lieu of the original. R.S.O. 1897, c. 136, s. 74.

Proof of registration of instruments in full executed before 1st Jan., 1866, etc.

61.—(1) An instrument which has been registered by memorial, and has endorsed thereon a certificate of the registration thereof, may be re-registered in the same or any other registry division by the production of the original in-

Registration of instruments in full when memorials previously registered.

strument and by the deposit of a copy with an affidavit verifying the same.

(2) The registrar shall record the instrument, the affidavit of verification and the certificate of former registration at full length and shall write in the margin of the registry book the words "Original not deposited," and where the former registration was made in the same office, the registrar shall write upon the entry of the memorial in the registry book a memorandum as follows:—"Re-registered and recorded in full as No. _____," giving a reference to the number and registry book where the instrument is recorded in full, and he shall also note the re-registration in red ink wherever the memorial is entered in an abstract index.

(3) The registrar shall also endorse upon the original instrument a certificate of the re-registration, Form 8. R.S.O. 1897, c. 136, s. 75.

Discharges of Mortgages.

Satisfaction of mortgage, as registered

62. In the case of a registered mortgage, the registrar on receiving a certificate, Form 10, executed by the mortgagee, or if the mortgage has been assigned, then by the assignee, or by such other person as may be entitled by law to receive the money and to discharge the mortgage, and duly proven in the manner provided for the proof of other instruments, shall, if the assignment or other document of title of the assignee or other person executing the certificate has been registered, register the same, and record it and every affidavit attached to or endorsed on it, at full length in the proper order, in the registry book, and number it in like manner as other instruments are required to be registered, recorded and numbered, and the certificate when registered shall be a discharge of the mortgage, and shall be as valid and effectual in law as a release of the mortgage, and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor. R.S.O. 1897, c. 136, s. 76; 7 Edw. VII., c. 29, s. 9.

Effect of such registration.

63. Where a loan corporation which has acquired the assets of another loan corporation by amalgamation of such corporation and the certificate of such amalgamation has been registered desires to discharge any of the mortgages of such corporation it shall be sufficient to set forth in the instrument to be registered the fact of the assent of the Lieutenant-Governor in Council to such amalgamation with the date of the certificate of amalgamation and its registered number in the registry division in which the land affected is situate or men-

tioning the Act by which the loan corporations were amalgamated or by which the agreement was ratified and upon registration of the discharge the registrar shall enter in the abstract index the facts mentioned in the discharge. 63 V., c. 19, s. 3, *part*.

64.—(1) Where a mortgage has been paid off by any person advancing money by way of a new loan on mortgage on the same land and the mortgage so paid off or the discharge thereof is held by the mortgagee making the new loan, the discharge of the mortgage so paid off shall be registered within six months from the date thereof, unless the mortgagor shall, in writing, have authorized the retention of the discharge for a longer period.

Registration of discharge when mortgage paid off by a new loan.

(2) The registration shall not affect the right (if any) of the mortgagee who may have paid off such mortgage, his assignee, or any person claiming under him by purchase or otherwise, to be subrogated to the rights of the mortgagee, whose mortgage debt has been so paid. R.S.O. 1897, c. 136, s. 77.

65.—(1) Where the person entitled to receive the mortgage money and to discharge a registered mortgage is not the original mortgagee, he shall, at his own expense cause to be registered before the registration of the certificate of discharge all the instruments or documents through which he claims interest in and title to the mortgage moneys, and until such instruments or documents are registered the registrar shall not register such certificate of discharge.

Registration of discharge given by person other than the mortgagee.

(2) The certificate shall mention the date and the date of registration and the registration number of each of the instruments or documents through which the person executing the certificate claims interest in and title to the mortgage moneys, and the names of the parties thereto.

(3) This section shall apply to powers of attorney where the certificate of discharge or prior instrument or document is executed by attorney, provided that it shall be sufficient in the certificate of discharge to state the date of each instrument, document or power of attorney and the names of the parties thereto and to endorse on the certificate the date of registration and registration number of each instrument, document, or power of attorney, which endorsement shall be signed by the person who signed the certificate or his attorney or agent and the endorsement shall be deemed to be part of the certificate. R.S.O. 1897, c. 136, s. 78 (1); 62 V., (2), c. 16, s. 7; 7 Edw. VII., c. 29, s. 10.

Registering
probate or let-
ters of admin-
istration.

(4) Where probate of will or letters or administration with the will annexed, is required to be registered under this section, and the will is over seven folios in length, including the probate or letters, and does not affect land in the registry division, except in so far as the testator was the holder of a mortgage, it shall not be necessary to record the will at full length; but it shall be sufficient to deposit a copy of and record so much of the probate or letters as shows the grant of probate or letters and the appointment of executors or administrators.

(5) The copy shall be accompanied by an affidavit of the executors or administrators, or of one of them, or of his or their solicitor, verifying it and stating that there is nothing in the will limiting the right of the executors or administrators to receive the mortgage money and discharge the mortgage, and that the will does not affect land in the registry division in which the probate or letters is to be registered, except in so far as the testator was the holder of a mortgage comprising land in such registry division. R.S.O. 1897, c. 136, s. 78 (2).

Application to
Judge for or-
der to register
instruments
authorizing
discharge to
be given.

(6) Where the person whose duty it is to register such instruments or documents refuses or neglects to register the same within fifteen days after payment of the mortgage money to him, the person entitled to redeem the mortgage may on giving ten days' notice in writing to the person so refusing or neglecting, apply in a summary manner to a Judge of the County or District Court of the County or District wherein the land or any part thereof mentioned in the mortgage is situate for an order directing that the person so refusing or neglecting shall within a time to be fixed by the Judge, register such instruments or documents at his own expense, and the Judge upon being satisfied by affidavit or oral evidence that the application is a proper one may make the necessary order.

(7) On being satisfied of the due service of the notice the Judge may proceed in the absence of the person so refusing or neglecting.

(8) The notice shall state that it is given in pursuance of this section. R.S.O. 1897, c. 136, s. 79.

Release of
part only of
lands mort-
gaged.

66.—(1) Where the holder of a mortgage desires to release or discharge part of the land comprised in it, or to release or discharge part of the money secured by the mortgage, he may do so by deed or by certificate to be made, executed, proven, and registered in the same manner and with

the like effect to the land or money released or discharged as when the whole land and mortgage are released and discharged.

(2) The deed or certificate shall contain as precise a description of the land released or discharged as is required in an instrument of conveyance for registration, and also a precise statement of the particular sum so released or discharged. R.S.O. 1897, c. 136, s. 82.

67.—(1) Where a sheriff, bailiff of a Division Court or other officer, under a writ of warrant of execution against goods, seizes a mortgage belonging to the person against whose goods the writ or warrant has issued, on or affecting land in Ontario, the payment of the mortgage money in whole or in part to the sheriff, bailiff, or other officer by the mortgagor or any other person or any person claiming under him, shall satisfy the mortgage to the extent of such payment. Discharge of mortgage seized under execution.

(2) After payment of the mortgage money or any part thereof, the sheriff, bailiff, or other officer shall, at the request and expense of the person requiring the same, give a certificate, Form 11, under the hand and seal of office of the sheriff or other officer, or under the hand of the bailiff and the seal of the Court of which he is bailiff. Form of certificate of discharge.

(3) Upon the written request of the bailiff the clerk of the court shall affix to the certificate the seal of the court; and he shall file the request of the bailiff in his office. Seal of Division Court.

(4) The execution of the certificate shall be proved in the same manner as in the case of other instruments affecting land and the certificate shall be registered in the same manner as other certificates of discharge. Proof of execution of certificate.

(5) The certificate when registered, if the same is of payment in full of the mortgage, shall be as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor. Effect of certificate.

(6) The certificate when registered, if the same is of payment of only a part of the mortgage money, shall be as valid and effectual in law as a release of the mortgage as to such part, as if executed by the execution debtor. R.S.O. 1897, c. 136, s. 83. Effect of certificate of part payment.

68. Instruments of the nature mentioned in section 36 may be discharged, and the land affected thereby released Discharge of instrument given in relation to purchase of goods.

therefrom by depositing in the proper registry office a certificate of discharge, Form 12. R.S.O. 1897, c. 136, s. 85.

By-Laws, etc.

Registration
of by-laws
passed since
29th March,
1873.

69.—(1) Every by-law passed since the 29th day of March, 1873, or hereafter to be passed by a municipal council under the authority of which any street, road, or highway is opened upon any private property, shall before the same becomes effectual in law, be registered in the registry office of the registry division in which the land is situate; and the same shall be registered without further proof by depositing a copy, certified under the hand of the clerk and the seal of the municipality. R.S.O. 1897, c. 136, s. 86 (1); 62 V. (2), c. 16, s. 8.

As to by-laws
etc., relating
to roads made
before 29th
March, 1873.

(2) Every by-law passed before the 29th day of March, 1873, and every order and resolution of the Quarter or General Sessions of the Peace passed before that day under the authority of which any street, road, or highway, has been opened upon any private property, may at the election of any person or municipality interested and at the cost and charges of such person or municipality, be registered, by depositing a certified copy of the by-law under the hand of the clerk and the seal of the municipality, or a certified copy of the order or resolution of the Quarter or General Sessions, under the hand and seal of the Clerk of the Peace.

By-laws, etc.
changes in
municipal
boundaries.

(3) Every by-law, proclamation, Order-in-Council, Order of the Ontario Railway and Municipal Board and other instrument of a public or *quasi* public nature whereby a village, town or city becomes incorporated, or the boundaries of any municipality are enlarged, diminished or altered, shall be registered in the proper registry office by the municipality passing or procuring the same, and a copy of a by-law certified under the seal of the corporation, and by the head and the Clerk of the municipality, and a copy of the proclamation, Order-in-Council, Order of the Ontario Railway and Municipal Board or other instrument certified by the Clerk of the Executive Council or the Secretary of the Board, as the case may be, shall be sufficient proof for the purpose of registration. R.S.O. 1897, c. 136, s. 86 (2-3).

REGISTRATION AND ITS EFFECT.

Unregistered
instruments
after grant
from the
Crown to be
void against
subsequent
registered
purchaser or
mortgagee.

70.—(1) After the grant from the Crown of land, and letters patent issued therefor, every instrument affecting the land or any part thereof shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration without actual notice, unless such

instrument is registered before the registration of the instrument under which the subsequent purchaser or mortgagee claims. R.S.O. 1897, c. 136, s. 87.

(2) This section shall not extend to a lease for a term not exceeding seven years where the actual possession goes along with the lease; but it shall extend to every lease for a longer term than seven years. R.S.O. 1897, c. 136, s. 39.

71. Priority of registration shall prevail unless before the prior registration there has been actual notice of the prior instrument by the person claiming under the prior registration. R.S.O. 1897, c. 136, s. 97. Actual notice.

72. No equitable lien, charge or interest affecting land shall be valid, as against a registered instrument executed by the same person, his heirs or assigns; and tacking shall not be allowed in any case to prevail against the provisions of this Act. R.S.O. 1897, c. 136, s. 98. As to equitable liens. Tacking.

See also c. 115, ss. 1 and 2.

73. The registration of an instrument, under this or any former Act shall constitute notice of the instrument, to all persons claiming any interest in the land, subsequent to such registration, notwithstanding any defect in the proof for registration, but nevertheless it shall be the duty of a registrar not to register any instrument, except on such proof as is required by this Act. R.S.O. 1897, c. 136, s. 92. Registry to be notice.

74. An instrument which is or purports to be a power of attorney or authority to sell land, in which the commission, payment for services, or other remuneration of the attorney or agent is made a charge on the land, shall, as against a subsequent purchaser or mortgagee for valuable consideration, and as against the creditors of the person giving the power or authority, cease to charge the land with such commission, payment for services, or remuneration, after the lapse of one year from the making of the instrument. R.S.O. 1897, c. 136, s. 88. Instruments giving authority to sell and naming commission, not to bind land after one year from date.

75. A will or the probate thereof, and letters of administration with the will annexed registered within twelve months next after the death of the testator shall be as valid and effectual against subsequent purchasers and mortgagees, as if the same had been registered immediately after such death; and in case the devisee, or person interested in the land devised in any such will, is disabled from registering the same within such time by reason of the contesting of such Wills to be registered within twelve months from death of testator.

will or by any other inevitable difficulty without his wilful neglect or default, then, the registration of the same within twelve months next after his attainment of such will, probate or letters of administration, or the removal of such impediment, shall be a sufficient registration within the meaning of this Act. R.S.O. 1897, c. 136, s. 89.

Registry of deeds on sales for taxes and sales under process of Court.

76. A deed of land made by a treasurer or other officer, in pursuance of a sale for arrears of taxes shall be registered within eighteen months after the sale; and a deed of land sold under process issued from any Court, shall be registered within six months after the sale; otherwise any person claiming under any such sale shall be deemed not to have preserved his priority as against a purchaser or mortgagee for valuable consideration without actual notice who has registered his conveyance before the registration of such deed. R.S.O. 1897, c. 136, s. 90. *See also Cap. 224, sec. 204.*

Entries in index and corrections.

77.—(1) Except in the manner hereinafter provided, after an instrument has been entered in the abstract and alphabetical indexes, and has been recorded in the proper registry book, no entry shall be made in the abstract index or in the alphabetical index respecting such instrument; nor shall any alteration or correction be made in any entry previously made respecting any instrument, or in any copy of any instrument in any registry book.

(2) The registrar shall immediately after becoming aware of any omission or error in recording, cause to be made in red ink such entries, alterations or corrections as are requisite; and a memorandum stating the date of every such entry, alteration or correction shall be made in red ink in the margin of the index or registry book opposite or near thereto; and such memorandum shall be signed by the registrar or his deputy. R.S.O. 1897, c. 136, s. 94.

When instruments to be deemed registered.

78.—(1) An instrument capable of and properly proved for registration, shall be deemed to be registered when and so soon as the same is delivered either personally or by post to and received at his office during office hours by the registrar or some officer or clerk in his office on his behalf, and thereafter no alteration shall be made by any person in such instrument. R.S.O. 1897, c. 136, s. 96.

(*For penalty see s. 115.*)

Fees payable before registration.

(2) The registrar shall not be bound to receive for registration or to register an instrument unless the proper fees are first paid. R.S.O. 1897, c. 136, s. 123.

79. Every registered mortgage shall as against the mortgagor, his heirs, executors, administrators, assigns and every other person claiming by, through or under him, be a security upon the land comprised therein to the extent of the money or money's worth actually advanced or supplied under the mortgage, not exceeding the amount for which such mortgage is expressed to be a security, notwithstanding that the money or money's worth, or some part thereof, was advanced or supplied after the registration of a conveyance, mortgage or other instrument affecting the mortgaged lands, executed by the mortgagor, his heirs, executors or administrators, and registered subsequently to such first-mentioned mortgage, unless before advancing or supplying such money or money's worth the mortgagee in such first-mentioned mortgage had actual notice of the execution and registration of such conveyance, mortgage or other instrument; and the registration of such conveyance, mortgage or other instrument after the registration of such first mentioned mortgage, shall not constitute such actual notice. R.S.O. 1897, c. 136, s. 99.

Mortgages how affected by subsequent registered conveyances, where mortgage moneys paid subsequently.

MISCELLANEOUS PROVISIONS.

Plans.

80.—(1) Where land is surveyed and subdivided for the purpose of being sold or conveyed in lots by reference to a plan which has not been already registered, the person making the survey and subdivision shall within three months thereafter deposit with the registrar a plan of the land on a scale not less than 1 inch to every 4 chains.

Registration of plans when land subdivided.

(2) The plan shall show the number of the township, city, town or village lots and range or concession as originally laid out, and all the boundary lines thereof, within the limits of the land being subdivided except where such plan is a subdivision of a lot or lots on a former plan, in which case it shall show the numbers or other distinguishing marks of the lot or lots subdivided and the boundary lines thereof.

Scale of plan and what to show.

(3) The number or other distinguishing mark and the width both front and rear shall be marked on each lot of the subdivision, the scale shall also be marked on the plan, and such information as will show the depth of the lots, and the courses of all the boundaries of, or the division lines between, the same and the governing line or lines to which such courses are referred shall also be indicated.

(4) The position of all the posts or monuments, if any, planted by the surveyor, or of other objects marking the boundaries of any of the lots or the corners thereof shall also be shown.

(5) The plan shall also show all roads, streets, railway lands, rivers, canals, streams, lakes, millponds, marshes or other marked topographical features within the limits of the land so subdivided, together with such other information as is required to show distinctly the position of the land. R.S.O. 1897, c. 136, s. 100 (1); 62 V. (2), c. 16, s. 9.

(6) On every such plan the lots shall be so described and designated by numbers, letters or words, that there shall not be more than one lot on such plan described and designated by the same number, letter or word, notwithstanding that the lots are on different sides of the same street or on different streets or in different blocks, and where the designation is by number the lots shall be numbered consecutively. 7 Edw. VII., c. 29, s. 11.

Plans to be mounted.

(7) The plan shall be mounted on stiff pasteboard of good quality, and when it exceeds thirty inches in length by twenty-four inches in width shall be folded so as not to exceed that size. R.S.O. 1897, c. 136, s. 100 (2).

Duty of Registrars thereafter.

(8) The plan, before being registered, shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the same is deposited, and shall also be certified by an Ontario Land Surveyor, Form 13.

(9) After the registration of the plan the registrar shall keep an index of the land described and designated by any number or letter on the plan, by the name by which it is so designated.

Instruments must conform to such plan.

(10) Every instrument affecting the land or any part thereof, executed after the plan is registered shall conform and refer thereto, otherwise it shall not be registered, except in cases provided for by section 84, and except also that where a mortgage has been registered before the registration of the plan, any assignment, discharge, final order of foreclosure of the mortgage, vesting order or conveyance under a power contained in or exercisable under the mortgage, shall be registered against the land as described in the mortgage. R.S.O. 1897, c. 136, s. 100 (3); 62 V. (2), c. 16, s. 10.

Exceptions.

Provision as to streets.

(11) No part of a road or street upon which any lot of land sold abuts, or which connects any such sold lot with or affords means of access therefrom to the nearest public highway shall be altered or closed up, but nothing herein shall in any way interfere with the powers of municipalities in reference to highways. R.S.O. 1897, c. 136, s. 100 (4).

Power of municipalities not interfered with.

(12) In the case of refusal or neglect by the person making the subdivision for two months after demand in writing for that purpose, to register the plan in accordance with the provisions of this Act when required by any person interested therein or by the Inspector so to do, he shall incur a penalty of \$20 for every calendar month which thereafter elapses without the plan being registered, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 136, s. 101. Penalty for refusing to register plan.

(13) The signature on a plan shall be witnessed and verified as in the case of an instrument. Verification of signature to plans.

(14) The registrar shall not register a plan which does not comply with the provisions of this Act; nor shall he register a plan on which a road or street less than sixty-six feet wide is laid out, unless the assent of the proper municipal council is registered therewith. Conditions as to registration of plans.

(15) The registrar shall not register a plan of a subdivision of land for which the Crown patent has not issued, unless the assent of the Minister of Lands, Forests and Mines to such registration is endorsed on the plan. Plans of unpatented lands.

(16) The registrar shall not register a plan of a subdivision of land, unless the person by whom or on whose behalf the same is tendered for registration appears on the registry books to be the owner of the land, nor unless the consent in writing of all persons who appear by the registry books to be mortgagees of the land is endorsed on the plan and signed by such person, or in the case of a corporation, by its chief officer, and such signatures are duly verified by affidavit. Registrar not to file plans for anyone but owner nor without consent of mortgagees.

(17) When any such plan has been so registered the registrar shall make a record of it, and enter the day and year on which the same is registered. R.S.O. 1897, c. 136, s. 102. Duty of the Registrar on receiving plan.

(18) The registrar shall not receive or register any plan upon which any street, road or lane is laid out unless there is registered therewith the approval of the proper municipal council or the order of the Judge of the County or District Court of the county or district in which the land lies, approving of such plan made upon notice to such council. 8 Edw. VII., c. 33, s. 37.

(19) Subject to the provisions of section 85 this section shall apply as well to land already surveyed and subdivided Application of this section

as to that which may hereafter be surveyed and subdivided.
R.S.O. 1897, c. 136, s. 103.

Plan index
book.

81. The Inspector may direct that a plan index book in the form prescribed by him shall be kept by the registrar, and the Municipal Treasurer shall pay to the registrar on the order of the Inspector such sum as he may desire for the preparation in the first instance of such book and the work incidental thereto. R.S.O. 1897, c. 136, s. 105.

Abstract in-
dex to sub-
divisions of
townships,
etc.

82.—(1) Whenever the Inspector deems that the public convenience so requires, he may direct the registrar to subdivide any township, park or other lots in a city, town or village into such blocks for abstract purposes, as having regard to conveyances registered upon such lots and otherwise, he considers most convenient; and in such case an abstract index shall be prepared by the registrar for each of such blocks as if the same had been originally a separate lot and the same shall extend from the Crown Patent onwards or from or to such other date as the Inspector may direct, and shall contain those registrations only which affect the subdivision to which the index relates. R.S.O. 1897, c. 136, s. 106 (1); 62 V. (2), c. 16, s. 11.

(2) Where the original lines of the lots do not form the boundaries of such blocks, public streets or such other limits as the Inspector directs shall be taken as the boundaries thereof.

(3) Where a plan of a subdivision of a lot or part of a lot has been or is hereafter registered, the registrar, when directed so to do by the Inspector, shall prepare an abstract of all instruments affecting the part subdivided, and enter the same in the page or pages of the abstract index book immediately preceding the abstract as to the first lot on such plan.

(4) Whenever and as often as a further subdivision of any of the lots on a plan is made, the registrar, when directed so to do by the Inspector, shall prepare and enter in like manner an abstract of all instruments affecting the part so subdivided from the registration of the previous plan.

(5) The registrar shall be allowed for preparing such abstracts, so far as the same relate to instruments registered prior to the Inspector's directing the subdivision, such amount as the Inspector may determine to be reasonable for the services, and the same shall be paid by the owner who registers the plan or by the county or city, as the Inspector may direct.

(6) For abstracts prepared for the purposes of plans hereafter registered, the registrar shall be entitled to receive from the persons registering such plans the prescribed fees for preparing an abstract in addition to the fees to be paid for registering such plans. R.S.O. 1897, c. 136, s. 106 (2-6).

83. No instrument referring to an unregistered plan shall be registered unless an instrument referring to such plan has been already registered in respect of the same land; and if the registrar objects to register an instrument on the ground that it refers to an unregistered plan, he may refuse to register such instrument unless the person desiring its registration refers the registrar to the number of an instrument previously registered in respect of the same land referring to the unregistered plan. R.S.O. 1897, c. 136, s. 107.

Registration of instruments referring to an unregistered plan.

84.—(1) Where an instrument which does not conform and refer to the proper plan has been duly executed and any party thereto has died, or where it would, in the opinion of the registrar, be impossible or inconvenient to obtain a new instrument containing the proper description, such instrument may be registered if accompanied by an affidavit, Form 14, annexed thereto or endorsed thereon.

When instruments not conforming to proper plan may be registered.

(2) The registrar shall thereupon enter such instrument in the abstract index in which the subdivision is entered under the lots designated in the affidavit, and no entry shall be made in the abstract index of the land before its subdivision. R.S.O. 1897, c. 136, s. 108.

85. In sales of land under surveys or subdivisions made before the 4th day of March, 1868, where such surveys or subdivisions so differ from the manner in which such land was surveyed or granted by the Crown that the parcel so sold cannot be easily identified unless the plan is registered, the plan shall be registered if still in existence and procurable for registration, and if it is not, a new plan shall be made by and at the joint expense of the persons who have made such surveys or subdivisions, and of all others interested therein, by an Ontario Land Surveyor, or as nearly as may be according to the proper original survey or subdivision, and the same when so made shall be registered as if under section 80. R.S.O. 1897, c. 136, s. 109.

When plan must be registered in case of lands subdivided before 4th March, 1868.

86.—(1) A plan, although registered, shall not be binding on the person registering the same, or upon any other persons, unless a sale has been made according to such plan, and in all cases amendments or alterations thereof may be authorized or ordered to be made, at the instance of the person registering the same or his assigns, by a Judge of the High Court, or by

Plan not binding until some sale is made under it; alterations in plan.

a Judge of the County or District Court of the county or district in which the land lies, on application for the purpose, and upon hearing all persons concerned, upon such terms and conditions as to costs and otherwise as may be deemed just.

Appeal.

(2) An appeal shall lie to the Court of Appeal from any order or decision made under this section. R.S.O. 1897, c. 136, s. 110.

Plans of towns or villages to be registered in certain cases.

87.—(1) Where a city, town or village or territory, the inhabitants of which are not incorporated, comprises different parcels of land owned at the original division thereof by different persons, and the same were not jointly surveyed and one entire plan of such survey made and registered, the municipal council of the township within which such territory is situate, or of such city, town or village, upon the written request of the Inspector or of any person interested, addressed to the clerk of the municipality, shall immediately cause a plan of such city, town, village or territory to be made in accordance with this Act, and to be registered in the registry office of the registry division within which the municipality lies.

(2) The plan shall have endorsed thereon the certificates of the clerk and head of the municipality and the surveyor that the same is prepared according to the directions of the municipality and in accordance with this Act, and the corporate seal of the municipality shall be attached to the plan. R.S.O. 1897, c. 136, s. 111 (1).

Registration of plan of unincorporated village situate in more than one township.

(3) Where such territory is situate in two or more townships, the Inspector may, by a written order, cause the plan to be made and registered, and where the territory is situate in two or more registry divisions, a duplicate of such plan shall be registered in each of such registry divisions.

(4) The plan shall have endorsed thereon the certificate of the surveyor that the same has been prepared according to the order of the Inspector, and such order or a copy thereof shall be attached to or endorsed on such plan; and any plan of territory situate in two or more townships heretofore prepared upon the request of the Inspector may, in like manner, be registered, and shall, when so registered, be as valid as if the same had been prepared upon the order of the Inspector.

Expenses of registering plan of such unincorporated village how apportioned.

(5) The expense of the preparation and registration of a plan in subsections 3 and 4 mentioned shall be paid out of the general funds of the municipalities in which the territory is situate, in such proportions as the Inspector may order, and any municipality may levy its proportion of such expense, or

so much thereof as the council sees fit, by assessment on all rateable property comprised in the part of the territory situate in such municipality as described by metes and bounds in a by-law to be passed for the purpose of levying such rate. 62 V. (2), c. 16, s. 12.

(6) Upon the production to the registrar of a certificate signed by the head of the municipal council concerned certifying that a surveyor has been employed by the council to prepare a plan for registration under this section, the surveyor named in such certificate shall be entitled, within six months from the date thereof, to make personal searches of the books, plans and instruments in the registry office for the purpose of enabling him to prepare such plan on payment of the ordinary fees payable for searches and productions up to an aggregate amount not exceeding \$25, and for all further searches and production in excess of \$25, on payment of one-half of the ordinary fees. 7 Edw. VII., c. 29, s. 12.

(7) Except as in this section is otherwise provided, the expense of the preparation and registration of the plan shall be paid out of the general funds of the municipality. Payment of expenses.

(8) In case of the neglect or refusal of the municipality to comply with all the requirements of this section within six months next after being required so to do, the municipality shall incur a like penalty to that provided by subsection 12 of section 80, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 136, s. 111 (2); 62 V. (2), c. 16, s. 13.

(9) Where land in a township has been or shall hereafter be sold under surveys or subdivisions made in a manner which so differs from that in which such land was surveyed or granted by the Crown that the parcel sold cannot be easily identified, and the plan has not been registered under this or any other Act, the council of the township may upon the written request of the Inspector, or of any person interested, cause a plan of such land to be made and registered in the same manner and with the same effect as in the case of territory the inhabitants of which are not incorporated; and the expenses of the preparation and registration of the plan shall be paid by a special rate to be levied by assessment on the land comprised in such plan, as described in a by-law to be passed for the purpose of levying such rate. R.S.O. 1897, c. 136, s. 111 (3). Registration of plans of township subdivisions in certain cases.

(10) A plan prepared under the provisions of this section shall show such subdivisions of original lots as are shown by the registered plans, and such as are not so shown but appear Plans of municipalities — what to be shown on.

from the instruments relating to such land, and the plan shall be prepared without adding to the costs thereof the expense of any actual survey on the ground except such as may be necessary to connect the subdivisions or parcels of land and to show any natural or artificial boundaries of the same which cannot be shown on the new plan from the information contained in the registered plans and instruments. 62 V. (2), c. 16, s. 14.

Obligations
not impaired.

(11) Nothing in this section shall relieve any person from any liability, duty, obligation or penalty provided or imposed by or under any of the provisions of this Act. R.S.O. 1897, c. 136, s. 111 (4).

Power of
County Judge
to order new
plans to be
filed.

(12) Where any land has been sold or conveyed in lots or parcels by metes and bounds, or in any other manner without a plan having been registered under this or any other Act showing such subdivisions or where parts of lots shown by a registered plan have been sold or conveyed, and the lots or parcels so sold or conveyed are not distinguished by numbers or letters, a Judge of the County or District Court of the county or district in which the land is situate, on the application of the Inspector, after such notice as the Judge may deem reasonable, may make an order directing the registrar to have the same, or any part thereof, laid out into lots or parcels in such manner and numbered as the Judge shall think fit, and a plan or plans thereof to be made in accordance with the records in the registry office, or from actual survey, as may be found necessary, and registered in accordance with the provisions of this Act, and the order of the Judge shall be endorsed on or attached to the plan and signed by him.

Costs.

(13) The costs and expenses of and incidental to the application and the plan and the registration thereof shall be borne by the person or municipality to be named by the Judge in the order.

(14) On filing the order with the clerk the same may be enforced as if it were a judgment of the court.

Effect of
registration.

(15) The registration of the plan shall be binding on all persons subsequently dealing with the land or any part thereof included in the plan or any interest in or concerning the same, but shall not affect the rights or interests of any owner or other person entitled at or before the date of registration. R.S.O. 1897, c. 136, s. 111 (5); 62 V. (2), c. 16, s. 15.

Contribution
by Crown to
sub-dividing
and surveying
blocks.

(16) Where the land proposed to be subdivided by plan under subsection 12 comprises 5,000 acres or upwards, which was granted by the Crown without being subdivided into lots,

the Inspector may cause the Attorney-General to be notified of the application, and the Attorney-General, on behalf of the Crown, may either submit that the Crown shall pay or contribute such part of the costs and expenses mentioned in subsection 13 as the Judge may determine to be reasonable, or the Attorney-General may consent, on behalf of the Crown, that the Crown shall pay and contribute a definite part of such costs and expenses, and in either of such cases the Judge may direct by what person or municipality the remainder of such costs and expenses shall be borne, and any such order may be entered and filed and may be enforced as against such person or municipality in the same manner as the order provided for in subsection 13. 1 Edw. VII., c. 15, s. 2.

88.—(1) Every person who is required to register a plan shall with the plan deposit with the registrar a duplicate thereof, certified to be such by the surveyor who prepared the plan, and the registrar shall endorse on the duplicate a certificate shewing the number of such plan and the date when the plan was registered, and the duplicate shall without fee be delivered by the registrar to the clerk, treasurer or assessment commissioner of the local municipality in which the land is situate.

Delivery of plans to municipal treasurers.

(2) The registrar shall not register any such plan unless a duplicate thereof is deposited in accordance with the provisions of this section. R.S.O. 1897, c. 136, s. 112; 7 Edw. VII., c. 29, s. 13.

Re-registration where Registry Books lost, etc.

89. Where the registry books and papers were before the 4th day of March, 1868, lost or destroyed, and a memorial cannot be produced, upon proof being made to that effect before a Judge of any Court of Record to his satisfaction as evidenced by a certificate under his hand, the Registrar may register the instrument upon production thereof, and no further proof shall be required than the original certificate of registration endorsed on such instrument and the instrument shall have priority according to the date of the original certificate and shall be preserved by the Registrar with the records of his office. R.S.O. 1897, c. 136, s. 113, *part*.

Re-registration in case registry books or papers are lost or destroyed.

90. Where memorials have not been copied into the registry books in their proper order, the Inspector may cause the same to be entered in proper books to be procured for the purpose, in the manner provided by section 23, and the registrar shall be paid therefor in the same manner as under clause (j) of section 91. R.S.O. 1897, c. 136, s. 113, *part*.

[As to list of Crown Grants being furnished to Registrar, see Cap. 28, sec. 39, and as to proceedings where land patented is in territory under The Land Titles Act, see Cap. 138, sec. 169.]

Fees of Registrars.

Fees.

91. A registrar shall be entitled to the following fees:

For registrations general.

(a) For the necessary entries and certificates in registering every instrument other than those hereinafter specially provided for, including among such certificates the certificate on the duplicate, if any, 40 cents.

(b) For registering every such instrument, \$1;

If the instrument exceeds 700 words, at the rate of 15 cents for each additional 100 words or fractional part thereof up to 1,400 words and at the rate of 10 cents for each additional 100 words or fractional part thereof over 1,400 words;

If the instrument includes different lots in different localities.

If the instrument embraces lots or parcels of land, situate in different municipalities in the same registry division, the registration and copying of such instrument together with all necessary entries and certificates in connection therewith, shall be considered separate and distinct registrations for each municipality in which the land is situate, and shall be paid for as follows:

Where the aggregate copying does not exceed 700 words, \$1.40; where it exceeds 700 words, 15 cents for every 100 words or fractional part thereof up to 1,400 words, in addition to the sum of \$1.40;

Where it exceeds 1,400 words, the sum of 10 cents for every 100 words or fractional part thereof in addition to the above charges; the fees shall include all certificates and necessary entries, but if the instrument embraces more than 4 different lots or parcels of land in the same municipality, the registrar shall be allowed a fee of 5 cents for entering each lot or parcel in excess of 4, but not to exceed \$5 for such entries up to 100 entries and where the instrument embraces more than 100 lots or parcels in the same

municipality, the registrar shall be allowed an additional fee of 2 cents for entering each lot or parcel in excess of 100. R.S.O. 1897, c. 136, s. 118, par. 1; 7 Edw. VII., c. 29, s. 14.

- (c) For searching the registry books and indexes relating to the title of any lot or part of a lot as originally surveyed or patented by the Crown, or as afterwards subdivided into smaller lots, shown by any registered plan thereof, when not exceeding 4 references, 25 cents and 5 cents for every additional reference up to 50 references and 5 cents for every additional 2 references over 50; For searches as to title.

In no case shall a general search into the title to any particular lot, piece or parcel of land exceed the sum of \$3;

In this clause "reference" shall mean a search of a copy of an instrument in the register, and if the abstract indexes only are examined, the total fee for searching any such lot or part of a lot, including 4 references, shall be 25 cents;

"Lot" shall mean one parcel of land as originally patented by the Crown and where such parcel has been subdivided shall include any one of the lots in any such subdivision or re-subdivision, a plan of which has been registered;

No person shall make copies of or extracts from any instrument, document, book, paper or record in the registry office, or of any matter contained therein, to an extent in the aggregate exceeding 300 words for any one lot or part of a lot, except on payment (in addition to the fees for search) of 5 cents for each 100 words or fraction thereof in excess of 300 words;

Where subsequent to the registration of a mortgage the land in such mortgage has been subdivided by plan and searches are made for the purpose of ascertaining subsequent grantees or incumbrancers in sale, foreclosure or other proceedings under such mortgage, the person searching, on producing a statutory declaration that the searches are being made for that purpose, shall be entitled to make such searches on all the lots in the subdivision on payment of a fee of 10 cents Search to ascertain persons interested in lands divided subsequently to registration of mortgage.

for each lot, but so that the whole fee for searches shall not exceed \$2. R.S.O. 1897, c. 136, s. 118, par. 2; 62 V. (2), c. 16, s. 17; 7 Edw. VII., c. 29, s. 15.

Searching
alphabetical
index.

General
search.

(d) For searching, if specially required, the alphabetical index of names referred to in section 32 as to each name in the books of any one township, or other municipality in the registry division, 25 cents; but if a general search as to any such name is made throughout the registry division, the aggregate of fees for such search shall not exceed \$1;

(e) For searching, if specially required, the general registry book for the whole registry division, referred to in section 23, as to each name, the sum of 25 cents. R.S.O. 1897, c. 136, s. 118, par. 3, 4;

Abstract
titles.

(f) For an abstract of title to any specific parcel certified by the registrar containing such particulars as to any number of the registered instruments affecting such parcel as the applicant may require, 25 cents;

When such abstract exceeds 100 words, 15 cents for every additional 100 words;

For copies of instruments when required, 10 cents for each 100 words.

Where there are two or more lots for which abstracts are required and the entries on such lots are identical, the registrar shall not be entitled to make an abstract for each lot separately, but the abstracts of title of such lots shall be included in one abstract, and the fees therefor shall be the same as if the extract applied to one lot only, except that the registrar shall be entitled in addition thereto to a fee of 25 cents for a search on each lot after the first lot, and for the first lot he shall be entitled to the same fees as are payable in respect of one lot;

Where there are two or more lots for which abstracts are required and the entries on such lots are partly identical, the registrar shall make a full abstract for one of the lots and enter in the same all the lots to which each instrument re-

fers, and in the abstract of the other lots he shall only include entries affecting those lots separately. R.S.O. 1897, c. 136, s. 118, par. 5; 62 V. (2), c. 16, s. 18;

- (g) For each certificate furnished by the registrar, except a certificate under paragraphs *a* or *b*, 25 cents; Certificates.
- (h) For registration of any plan of city, town or village lots, including all necessary entries connected therewith, \$1; but if the plan embraces more than 20 lots, the registrar shall be allowed a fee of 5 cents for each lot in excess of 20, not to exceed in the whole \$5;
- (i) For searches as to the names of registered owners and as to mortgages under subsection 16 of section 80, in connection with the registration of a plan, the sum of \$1. R.S.O. 1897, c. 136, s. 118, pars. 6-8;
- (j) For furnishing the copies required under sections 26 and 28, 10 cents for each 100 words or fraction thereof; Statements under sections 26 and 28.
- (k) For repairing any book, or copying, mounting, or binding plans, or for new plans and surveys, or for new abstract indexes, such sums as the Inspector may order in writing, specifying the nature of the service. R.S.O. 1897, c. 136, s. 118, par. 9; 62 V. (2), c. 16, s. 19;
- (l) For drawing each affidavit and swearing the deponent thereto, 25 cents, and the same fee for administering the oath when that only is required. R.S.O. 1897, c. 136, s. 118, par. 10; Affidavits.
- (m) For exhibiting in the office each original registered instrument, including search for the same, 10 cents; and for producing each original registered instrument, including search for the same, in pursuance of a Judge's order or subpoena, the sum of 10 cents in addition to the registrar's ordinary witness fees. R.S.O. 1897, c. 136, s. 118, par. 11; 62 V. (2), c. 16, s. 20; Showing originals.
- (n) For registering a certificate of discharge of mortgage, including a certificate under section 68, and every other certificate excepting certi- Certificates of discharge of mortgage.

Fees on registering discharges of mortgage.

ificates provided for in paragraph *o*, including all entries and certificates thereof, 50 cents if the certificate affects more than four lots or parcels, a fee of 5 cents for each lot or parcel in excess of four; if the certificate affects two or more lots or parcels in the same registry division, or if the certificate or aggregate copying thereof exceeds 300 words, 10 cents for each additional 100 words or fractional part thereof, not to exceed \$5 in the whole in any case for the registration of the certificate. R.S.O. 1897, c. 136, s. 118, par. 12; 62 V. (2), c. 16, s. 21;

Of payment of taxes.

- (*o*) For registering certificate of payment of taxes, 25 cents.
- (*p*) For registering certificate of amalgamation of loan corporations, together with a certified copy of any document mentioned in the certificate, \$4. 63 V., c. 19, s. 3, *part*.
- (*q*) For registering letters of administration, \$1. R.S.O. 1897, c. 136, s. 71, *part*.
- (*r*) For registering notice of sale of land under power in mortgage, 50 cents. R.S.O. 1897, c. 136, s. 72, *part*.
- (*s*) For registering an affidavit for registering instrument entered in general register, 50 cents. 63 V., c. 19, s. 2.

Fees in cases not provided for.

92. Where an Act of Ontario or of the Dominion of Canada requires or permits an instrument, document or plan to be deposited, filed or registered in a registry office or requires a registrar to perform any other duty but omits to provide fees to the registrar for his services in connection therewith, and no fees therefor are provided by this or any other Act, the registrar, in the absence of any express provision requiring him to perform such services gratuitously, shall be entitled to such reasonable fees therefor as the Inspector shall fix to be paid by the person requiring the service to be performed. 62 V. (2), c. 16, s. 22; 7 Edw. VII., c. 29, s. 16.

Figures.

93. In abstracts and certificates where figures are used instead of words to denote dates, numbers and quantities, the same shall be charged for as if each number, though composed of several figures, were but one word. R.S.O. 1897, c. 136, s. 118, *pars* 13-15.

94. Subject to any general rules made under the authority of *The Land Titles Act*, a Master or Local Master of Titles may, by himself or by his clerks, without payment of fees, inspect all books and papers in a registry office for his own information as such Master, but this provision shall not apply to an application in which an abstract of title obtained for the purpose of such application has not been filed. 4 Edw. VII., c. 10, s. 30.

Inspection of books in registry offices by Master or Local Master of Titles.

95.—(1) Where a dispute arises in regard to any question of fees under this Act, the registrar shall forthwith submit the same to the Inspector, and shall thereupon notify the person interested or his agent of such submission, and the decision of the Inspector upon the question submitted shall be final, unless appealed from and varied upon appeal, as hereinafter mentioned.

Disputes as to fees.

(2) All decisions given by the Inspector shall be in writing, and the appeal therefrom shall be in like manner, and subject to the same rules of practice as nearly as may be as an appeal from a Local Master. R.S.O. 1897, c. 136, s. 119.

96. Every registrar shall keep posted up in some conspicuous place in his office a printed schedule of the fees and charges authorized under this Act. R.S.O. 1897, c. 136, s. 120.

Table of fees to be posted in Registrar's office.

97. Every registrar shall upon request of the person for whom the service is performed, furnish a statement in detail of the fees charged by him in respect of any matter for which fees are payable under the provisions of this Act. R.S.O. 1897, c. 136, s. 121.

Registrar to give statement of fees payable in any matter.

98. If the treasurer of a county or of a city in which a separate registry office is established, on the request of the registrar refuses or neglects to pay the fees and allowances for any services required by this Act, and performed by him which such treasurer ought to pay, the registrar may sue for and recover the same from the corporation of the county or city in any court of competent jurisdiction; and the Inspector's certificate of the amount and of the services rendered shall be *prima facie* evidence of the right to recover. R.S.O. 1897, c. 136, s. 122.

Recovery of fees from municipal corporations.

Evidence.

99.—(1) Every registrar shall keep a separate book in which he shall enter from day to day, all fees and emoluments received by him, showing separately the sums received for registering each instrument, and for searches, and for extracts or copies.

Registrars to keep accounts of fees.

Registrar's
annual
returns.

(2) Every registrar shall annually, on or before the 15th day of January, make to the Lieutenant-Governor a return up to and including the 31st day of December of the next preceding year which shall show:

- (a) The number of instruments registered and the fees therefor;
- (b) The number uncopied and uncomparred;
- (c) The number of patents registered and fees therefor;
- (d) The number of deeds registered and fees therefor;
- (e) The number of mortgages registered and fees therefor;
- (f) The number of discharges of mortgages registered and fees therefor;
- (g) The number of wills registered and fees therefor;
- (h) The number of leases registered and fees therefor;
- (i) The number of abstracts and fees therefor;
- (j) The number of searches and fees therefor;
- (k) The number of mechanics' liens and fees therefor;
- (l) The number of all other instruments registered or deposited and fees therefor;
- (m) The amount received for work done for which the county, city, or other municipality is liable;
- (n) The amount received for other services not enumerated above;
- (o) The fees earned and not received;
- (p) The gross amount of fees earned for the year;
- (q) The gross amount earned for the previous year;
- (r) The amount paid to the deputy registrar for services and the amount of other charges in connection with the office paid by the registrar;

(s) The amount of surplus paid to the county or city for the year and when paid;

(t) The amount of such surplus for the previous year;

(u) The net amount received by registrar.

(3) The return shall show the number of mortgages registered during the year

(a) In which the consideration is nominal or not specified;

(b) In which the consideration is \$1,000 or under;

(c) In which the consideration is over \$1,000 and does not exceed \$2,000;

(d) In which the consideration is over \$2,000 and does not exceed \$5,000;

(e) In which the consideration is over \$5,000;

(f) The aggregate amount of all such mortgages.
R.S.O. 1897, c. 136, s. 124.

(4) The return shall also contain such other information as may be prescribed by the Lieutenant-Governor in Council. *New.*

(5) The return shall be transmitted to the Provincial Secretary. *New.*

100. The registrar shall, upon request, furnish to the clerk or to the assessment commissioner or assessor of any municipality a list of all conveyances whereby land in the municipality has been transferred, which have been registered in his office during the next preceding year or any part thereof, and in such list shall include the names of the grantor, the grantee, the consideration shown in each transfer, and a short description of the land conveyed, but shall not include leases for less than twenty-one years, mortgages, discharges of mortgage, or other like instruments, and the registrar shall be entitled therefor to a fee of five cents for every instrument included in the list. R.S.O. 1897, c. 136, s. 125; 7 Edw. VII., c. 29, s. 17; 8 Edw. VII., c. 33, s. 38.

101.—(1) Every registrar shall be entitled to retain to his own use in each year all the fees and emoluments received by him in that year up to \$1,500.

Registrar to furnish clerk or assessment commissioner with list of conveyances.

Registrars on Payments by gross income.

Rev. Stat.
c. 138.

(2) Subject to the provisions of section 104 of this Act and of section 162 of *The Land Titles Act*, every registrar other than the registrars of East and West Toronto, and for the County of Wentworth, shall of the fees and emoluments received by him in each year pay to the treasurer of the county or city for which or for part of which he is registrar, the following percentages:

- (a) On the excess over \$2,500 up to \$3,000, ten per cent.;
- (b) On the excess over \$3,000 up to \$3,500, twenty per cent.;
- (c) On the excess over \$3,500 up to \$4,500, thirty per cent.;
- (d) On the excess over \$4,500, forty per cent.

Percentage of
net income
payable to
municipality.

Rev. Stat.
c. 138.

(3) Subject to section 104 of this Act and to section 162 of *The Land Titles Act*, every registrar, other than the registrars of East and West Toronto and for the County of Wentworth, of the net income of each year over \$1,500 shall further pay to such treasurer for the use of the municipality, the following percentages:—

- (a) On the excess over \$1,500 up to \$2,000, ten per cent.;
- (b) On the excess over \$2,000 up to \$2,500, twenty per cent.;
- (c) On the excess over \$2,500 up to \$3,000 thirty per cent.;
- (d) On the excess over \$3,000, fifty per cent. R.S.O. 1897, c. 136, s. 126; 9 Edw. VII., c. 26, s. 8 (1).

Percentage
payable out of
net income of
Toronto
Registrars.

Rev. Stat.
c. 138.

102.—(1) Subject to the provisions of section 162 of *The Land Titles Act*, the registrars of East and West Toronto shall each pay to the Treasurer of the City of Toronto and the registrar of the County of Wentworth shall pay to the Treasurer of the City of Hamilton and of the County of Wentworth, subject to the provisions of subsection 2 of section 104, of his net income of each year over \$1,500, the following percentages:—

- (a) On the excess over \$1,500 up to \$2,000, ten per cent.;

(b) On the excess over \$2,000 up to \$2,500, twenty per cent.;

(c) On the excess over \$2,500 up to \$3,000, thirty per cent.;

(d) On the excess over \$3,000 up to \$6,000, fifty per cent.;

(e) On the excess over \$6,000, ninety per cent.

(2) The deduction from the gross income for the expenses connected with the work of or in conducting the business of the offices of the registrars for East and West Toronto shall not be increased beyond the amount paid therefor in the year 1895, without the consent, in writing, of the Inspector. R.S.O. 1897, c. 136, s. 127.

103. For the purposes of this Act, "net income" shall mean the excess of all fees and emoluments, including receipts in the current year, whether on account of the earnings or salary of such year or of any former year, after deducting the disbursements incident to the business of the office and after payment to the municipality of the percentages mentioned in subsection 2 of section 101. R.S.O. 1897, c. 136, s. 128. "Net income," meaning of.

104.—(1) On the fifteenth day of January in each year every registrar shall transmit to the treasurer of the county or city for which, or for part of which, he is registrar, a duplicate of the return required by section 99, and shall also pay to such treasurer for the use of the municipality the percentages required by this Act to be paid by him. Payment of surplus fees.
Return.

(2) Where a registry division includes a county or part of a county and a city or town separated from the county for municipal purposes, the percentages shall be paid to the treasurer of the county and to the treasurer of the city or town for the use of the municipality in the proportions in which the gross fees and emoluments are derived from extracts, searches, registrations, and other charges in respect of land situate in the county, and in the city or town respectively. R.S.O. 1897, c. 136, s. 129.

105. Every registrar shall, on or before the seventh day of January in each year, transmit to the head of any municipality to which he has made payments in accordance with the provisions of this Act during the next preceding year a statement signed by him showing the amounts so paid and the dates of payment, and the head of the municipality Registrars to send statement of amounts paid to head of municipality.

receiving such statement shall cause it to be laid before the auditors when auditing the accounts of that year, and shall also read it at the first meeting of the council held after its receipt. 61 V., c. 23, s. 12.

Adjustment of percentage payable to municipality where registrar fills the office for part of year only.

106.—(1) Every registrar or person who fills the office of registrar and receives the fees and emoluments thereof for a part of any year shall, or in case of his death his executors or administrators shall, in respect of the fees and emoluments received by him during such part of a year, pay a proportion thereof to the municipal treasurer for the use of the municipality under sections 101, 102 and 104, such proportion to correspond to the part of the year during which he so filled the office and to be computed for such part of the year at the same rate as the registrar would have been required to pay if he had filled the office for the whole year and received the fees and emoluments and made disbursements incident to the business of the office for the whole of such year at the same rate as for the part of the year during which he filled the office.

(2) Every such registrar or other person, within fifteen days after the expiry of the part of the year for which he filled the office, and in case of his death his executors or administrators, within thirty days after his death, shall make a return under oath to the Lieutenant-Governor, up to and including the day of such expiry or death which shall contain all the particulars required by subsection 2 of section 99, for such part of the year and shall transmit the same to the Provincial Secretary, and shall also, at the same time, transmit to the treasurer a duplicate of such return, and pay to him for the use of the municipality such proportion of the fees and emoluments received by such registrar or other person during the part of the year herein referred to as are payable to such municipality.

(3) Subsection 2 of section 104 shall apply to the proportion of fees in this section mentioned. R.S.O. 1897, c. 136, s. 130.

Certain fees not to be included in payments to municipalities.

107. In ascertaining the percentages payable under this Act there shall not be included in the fees and emoluments any sum receivable from a municipality for the preparation of abstract indexes, or for work done under sections 26 or 28 or subsection 5 of section 82 or section 100, nor shall anything in this Act apply to the fees or emoluments received on account of services as Returning Officer under *The Election Act of Ontario* or of Canada. R.S.O. 1897, c. 136, s. 131; 7 Edw. VII., c. 29, s. 18.

108. The council of every county, city or separated town may by by-law authorize the warden, mayor or treasurer to inspect the books of office kept in any registry division in the county or city, for the purpose of testing the accuracy of the returns or computations of fees received by the registrar to a share or percentage of which the county, city or town is or may become entitled, and the registrar shall at all convenient times allow such books to be inspected for that purpose free of charge. R.S.O. 1897, c. 136, s. 132.

Inspection of
registry books
by municipal
officers.

109. The amount to be allowed for the disbursements of a registrar shall be subject to the revision and determination of the Inspector. R.S.O. 1897, c. 136, s. 133.

Disbursement
subject to
revision of
Inspector.

110.—(1) The Lieutenant-Governor in Council may make rules for the management of registry offices, and may, by such rules, confer on the Inspector such powers as may be deemed necessary for carrying out the provisions of this Act, and all other Acts relating to the duties of registrars.

Lieutenant-
Governor may
make rules.

(2) Every such rule shall be laid before the Assembly within ten days from the making thereof if the Legislature is then in session and if not in session then within the first ten days of the session next after the making thereof. R.S.O. 1897, c. 136, s. 134.

INSPECTOR OF REGISTRY OFFICES.

111. There shall be an Inspector of Registry Offices, who shall be appointed by the Lieutenant-Governor in Council, and who, in addition to any other duties imposed by this Act, shall,

Appointment
of Inspector,
and his duties.

- (a) Make as often as practicable a personal inspection of the building in which each registry office is kept, and of the books, deeds, memorials and other instruments in each office;
 - (b) See that the proper books are provided, that they are in good order and condition, that the proper entries and registrations are made therein in a proper manner and in a due and proper form and order, that the indexes are properly kept, and that all the memorials and other instruments are duly endorsed, certified and preserved;
 - (c) Ascertain that the office is kept open at and for the proper times, and that it is at all times duly attended by the registrar or his deputy;
- Inspection of
building.
- Books, etc.
- Office hours.

- Seals of officials. (d) Settle on some uniform device for the official seals, and see that the registrars supply themselves therewith;
- New indexes. (e) Inspect all new abstract and alphabetical indexes, and settle and certify the sums, if any, chargeable therefor;
- Plans. (f) Ascertain whether the proper plans required by this Act have been registered, and, where necessary, enforce the provisions of this Act as to the preparation and registration thereof, and instruct the Crown Attorney to take proceedings for that purpose;
- Reporting vacancies. (g) Report upon any vacancies by death or otherwise in the office of registrar or deputy registrar;
- Instruction of registrar and his duties. (h) Inform the registrar how and in what manner he shall do any particular act or amend or correct whatever the Inspector may find amiss; and if he finds the work improperly performed, order a new book or books to be prepared and completed by the registrar at his own expense;
- Sufficiency or insufficiency of sureties. (i) Ascertain the sufficiency of the security furnished the registrar.
- Reporting to Lieutenant-Governor. (j) Report upon all such matters to the Lieutenant-Governor for his information and decision; and
- (k) Perform such other duties as the Lieutenant-Governor in Council may prescribe. R.S.O. 1897, c. 136, s. 135.

Evidence on investigations by Inspector.

112. Where the Inspector in the performance of his duties under this Act has occasion to make an enquiry or to determine any matter he may require any person to give evidence on oath and for that purpose may summon such person to attend as a witness, may enforce his attendance, may compel him to produce books, documents and things, and to give evidence in like manner as the High Court may in civil cases. 4 Edw. VII., c. 10, s. 31.

Registrars to furnish information to Inspector.

113. Every registrar shall transmit to the Inspector such particulars with reference to the business of his office as the Inspector may require. R.S.O. 1897, c. 136, s. 136.

Duty of Inspector on finding work in arrear.

114. Where it appears to the Inspector that the work of a registry office is unduly in arrear, he may employ such

assistance as he deems necessary to perform the work in arrear, and the cost thereof shall be payable by the registrar to the persons entitled, on the certificate of the Inspector. R.S.O. 1897, c. 136, s. 137.

PENALTY FOR ALTERING BOOKS OR DOCUMENTS.

115. Any person, except the registrar or other officer, when entitled by law so to do, who alters any book, record, plan or registered instrument in any registry office, or makes any memorandum, word or figure in writing thereon, whether in pencil or in ink, or by any other means, or in any way adds to or takes from the contents of such book, record, plan or registered instrument, shall incur a penalty of not less than \$5 and not more than \$100, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 136, s. 95. Penalty for unauthorized alteration of entry.

116. This Act shall not come into force until the 1st day of September, 1910. Act to come into force on September 1st, 1910.

REPEAL.

117. Chapter 136 of the Revised Statutes, 1897, excepting sections 7 (1) and (2), 80, 81, 91, 114, 115, 116 and 117, and section 633 of *The Consolidated Municipal Act*, 1903, and all amendments to the said chapter 136 are repealed. Repeal. 3 Edw. VII. c. 19.

FORM 1.

REGISTRAR'S OATH OF OFFICE.

County (or District) of I (name and describe the deponent), having been appointed to the office of Registrar, in and for the
To Wit: (name of Registry Division, etc.), do swear that I will well, truly and faithfully perform and execute all the duties required of me, under the laws of Ontario, pertaining to the said office, so long as I continue therein, and that I have not given directly or indirectly, nor authorized any person to give, any money gratuity or reward whatsoever for procuring the said office for me.

Sworn before me, etc.

A Commissioner, etc.

A.B.

R.S.O. 1897, c. 136, Sched. C.

FORM 2.

CERTIFICATE RESPECTING REGISTRY BOOKS.

This register contains pages, exclusive of index, and is to be used for the City (or Town, Village or Township) of , in the County (or District) of for the recording of deeds, duplicates, and other instruments under the provisions of *The Registry Act*, and is provided in pursuance of the said Act.

Dated this day of , 19 .

R.S.O. 1897, c. 136, Sched. D.

FORM 3.

ABSTRACT INDEX.

Township of		, Lot No.		in the		Concession.		
1	2	3	4	5	6	7	8	9
No. of In- stru- ment.	In- stru- ment.	Its Date.	Date of Regis- try.	Grantor.	Grantee.	Quan- tity of Land.	Consid- eration in con- veyance or amount of mort- gage money.	Re- marks.

NOTE.—The names of all the grantors and grantees should appear in the abstract index.

R.S.O. 1897, c. 136, Sched. E.

FORM 4.

ALPHABETICAL INDEX.

No. of Instru- ment.	GRANTOR.	GRANTEE.	No. of Instru- ment.	GRANTEE.	GRANTOR.

R.S.O. 1897, c. 136, Sched. F.

FORM 5.

AFFIDAVIT OF EXECUTION.

County (or District) of { I, (name, residence and occupation),
To Wit: { make oath and say:

1. That I was personally present and did see the annexed (or within) instrument (and a duplicate, if any, according to the fact) duly signed, sealed and executed by the parties thereto.

2. That the said instrument (and duplicate, *if any, according to the fact*) was (or were) executed by the said parties at the
of

3. That I know the said parties.

4. That I am a subscribing witness to the said instrument (and duplicate, *if any, according to the fact*).

Sworn, etc.

A.B.

R.S.O. 1897, c. 136, Sched. G.

FORM 6.

AFFIDAVIT OF EXECUTION WHERE THE INSTRUMENT IS A SECURITY UNDER
SECTION 36.

County (or District) of } I, (name, residence and occupation)
To Wit: } make oath and say:

1. That I was personally present and did see the annexed (or within) instrument (and a duplicate, *if any, according to the fact*), duly signed, sealed and executed by the parties thereto.

2. That the said instrument was read over in my presence and explained to the said , and that he appeared perfectly to understand the same, and was informed that it might be registered as an incumbrance on his land.

3. That the said instrument (and duplicate, *if any, according to the fact*), was (or were) executed by the said parties at the
of

4. That I know the said parties.

5. That I am a subscribing witness to the said instrument (and duplicate, *if any, according to the fact*).

Sworn, etc.

A.B.

R.S.O. 1897, c. 136, Sched. H.

FORM 7.

CERTIFICATE OF THE JUDGE OF THE COUNTY OR DISTRICT COURT IN LIEU
OF AFFIDAVIT OF EXECUTION.

I,
County (or District) of } Judge of the County (or District) Court of
To Wit: } the County (or District) of
certify that, from the proof adduced by
(name of the person producing the proof),
I am satisfied of the due execution of the within instrument (or of the instrument whereof the within is a copy, memorial or duplicate, *as the case may be*).

As witness my hand at
day of

19 .

the

A.B.,
Judge.

R.S.O. 1897, c. 136, Sched. I.

FORM 8.

CERTIFICATE OF REGISTRATION.

I certify that the within instrument is duly entered and registered in the Registry Office for the Registry Division of in Book for the of at o'clock of the day of 19 .

Number

Registrar,
or Deputy Registrar.

R.S.O. 1897, c. 136, Sched. J.

FORM 9.

MINUTE OF REGISTRATION.

Entered and registered this day of 19 at o'clock m.

Registrar (or Deputy Registrar).

R.S.O. 1897, c. 136, Sched. K.

FORM 10.

DISCHARGE OF MORTGAGE.

To the Registrar of the Registry Division of I, , of , do certify that has satisfied all money due on, or to grow due on (or has satisfied the sum of \$ mentioned in), a certain mortgage made by of to which mortgage bears date the day of 19 , and was registered in the Registry Office for the Registry Division of on the day of 19 , at minutes past o'clock, noon, in Book for as No. (*here mention the date and the date of registration of each assignment thereof, and the names of the parties, or mention that such mortgage has not been assigned, according to the fact*), and that I am the person entitled by law to receive the money, and that such mortgage (or such sum of money as aforesaid, or such part of the land as is herein particularly described, that is to say:) is therefore discharged.

Witness my hand this day of 19 .
A.B.

Witness }
}

R.S.O. 1897, c. 136, Sched. L.

FORM 11.

CERTIFICATE OF DISCHARGE OF MORTGAGE BY SHERIFF, ETC.

To the Registrar of the Registry Division of

I, A.B., of Sheriff of the County (or District) of [or Bailiff of the (number) Division Court of the County (or District) of] do certify that by virtue of an execution wherein C.D. is plaintiff

and *E.F.* defendant, issued out of the High Court of Justice (*or as the case may be*) and to me directed, I seized a certain mortgage made by one *J.H.* of (*as described in the mortgage*) bearing date the day of , 19 , and registered at of the clock in the noon, of the day of in Book for as No. to *E.F.*, of (*as described in the mortgage*), the defendant in the said execution named, and such mortgage has not been assigned (*or has been assigned to the defendant: here set out date and date of registration of assignment*) and I do further certify that I have received from the said mortgagor (*or from the executors, administrators, or assigns of the said mortgagor, as the case may be*), the full amount of said mortgage (*or \$ part of the mortgage money*), and that such mortgage is therefore discharged (*or that such mortgage is as to \$ part of the money thereby payable, discharged*).

As witness my hand and seal of office (*or the seal of the said Court*) this day of 19 .

A.B.

Witness, }
C.D. }

R.S.O. 1897, c. 136, Sched. M.

FORM 12.

CERTIFICATE OF DISCHARGE OF INSTRUMENT CREATING A CHARGE.

To the Registrar of the Registry Division of

County (*or District*) of I, (*name, residence and occupation*),
To Wit: } do hereby certify that of the
 of , in the County (*or District*) of
 (*occupation*) , has satisfied all money due or
to grow due on (*or has satisfied the sum of \$ mentioned in*)
a certain instrument made by of to ,
which instrument bears date the day of 19 , and
was registered in the Registry Office for the Registry Division of
 on the day of 19 , at
 minutes past o'clock noon, in
Book for , as No. (*here mention the
date and the date of registration of each assignment thereof, and the
names of the parties, or mention that such instrument has not been
assigned, according to the fact*), and that I am the person entitled
by law to receive the money, and that such instrument (*or such
sum of money as aforesaid, or such part of the land as is herein
particularly described, that is to say:*)
is therefore discharged.

Witness my hand this day of 19 .

A.B.

Witness }
C.D. }

R.S.O. 1897, c. 136, Sched. N.

FORM 13.

SURVEYOR'S CERTIFICATE OF PLAN.

I hereby certify that this plan accurately shows the manner in which the land included therein has been surveyed and subdivided

by me; and that the said plan is prepared in accordance with the provisions of *The Registry Act*.

Dated

19

A.B.
Ontario Land Surveyor.

R.S.O. 1897, c. 136, Sched. O.

FORM 14.

AFFIDAVIT WHERE INSTRUMENT DOES NOT CONFORM TO PLAN.

County (or District) of } I, (name, residence and occupation),
To Wit: } make oath and say:

1. To the best of my knowledge and belief, the land described in the within (or annexed) instrument is designated on Registered Plan No. as lots (*describe same so as to conform to plan*).

2. That a party to said instrument died on or about the day of 19, (or as the case may be).

(or 2. That it is impossible (or inconvenient) to obtain a new instrument or a re-execution of the said instrument containing a description conforming to the said plan for the following reasons (*here set out the facts*).

3. That I have a personal knowledge of the matters herein deposed to.

Sworn etc.

R.S.O. 1897, c. 136, Sched. P.

FORM 15.

AFFIDAVIT UNDER SECTION 33 (2).

County (or District) of } I, (name, residence and occupation),
To Wit: } make oath and say that

1. I am a party (or as the case may be) to an instrument affecting land without local description, registered in the Registry Division of on the day of 19, at minutes past o'clock noon, in Book , as number .

2. The said instrument affects the land within the said Registry Division hereinafter described, that is to say (*here give a local description of the lands sufficient for the purposes of registering an instrument in the separate Registry Books under the Act*).

Sworn, etc.

A.B.

63 V. c. 19, s. 2.

SCHEDULE A.

LIST OF REGISTRY DIVISIONS.

Part 1.

The undermentioned TERRITORIAL DIVISIONS, as set forth in Chapter 3 of the Revised Statutes of Ontario, 1897 (except as otherwise mentioned), constitute separate registry divisions:—

The Counties of—

1. Brant.
2. Bruce.
3. Carleton, excepting the City of Ottawa.
4. Dufferin.
5. Dundas.
6. Elgin.
7. Essex.
8. Frontenac, excepting the City of Kingston.
9. Glengarry.
10. Grenville.
11. Haldimand.
12. Halton.
13. Hastings.
14. Huron.
15. Kent.
16. Lambton.
17. Leeds.
18. Lennox and Addington.
19. Lincoln.
20. Norfolk.
21. Ontario.
22. Oxford.
23. Peel.
24. Peterborough.
25. Prescott.
26. Prince Edward.
27. Renfrew.
28. Russell.
29. Simcoe.
30. Stormont.
31. Victoria.
32. Waterloo.
33. Welland.
34. Wentworth.

The Cities of—

35. Kingston.
36. London.
37. Ottawa.

The Provisional County of—

38. Haliburton; and

The Districts of—

39. Algoma.
40. Kenora.
41. Manitoulin.
42. Muskoka.
43. Nipissing.
44. Parry Sound.
45. Rainy River.
46. Sudbury.
47. Thunder Bay.

Part 2.

The undermentioned ELECTORAL DISTRICTS, as set forth in Chapter 6 of the Revised Statutes of Ontario, 1897 (except as otherwise mentioned), constitute separate registry divisions:—

48. Durham, East Riding.
 49. Durham, West Riding.
 50. Lanark, North Riding, and town of Carleton Place.
 51. Lanark, South Riding.
 52. Middlesex, West Riding.
 53. Northumberland, East Riding.
 54. Northumberland, West Riding, and the township of West Monaghan.
 55. Perth, North Riding, and the township of Logan.
 56. Perth, South Riding, excepting the township of Logan.
 57. York, North Riding.
58. The East and North Ridings of Middlesex constitute one registry division; and
59. The East and West Ridings of York constitute one registry division.

Part 3.

The undermentioned registry divisions are constituted as hereinafter set forth:—

60. East Toronto consists of all that part of the City of Toronto lying east of Spadina Avenue and Spadina Road, continued south and north to the boundaries of the city, the land on Spadina Avenue now occupied by Knox College, and the Islands constituting the southerly part of the said city.
61. West Toronto consists of all that part of the said city lying west of Spadina Avenue and Spadina Road, continued as aforesaid to the boundaries of the city.
62. Grey, North Riding, consists of the townships of Collingwood, Derby, Euphrasia, Holland, Keppel, St. Vincent, Sarawak, Sullivan and Sydenham, and the towns of Meaford, Owen Sound and Thornbury.
63. Grey, South Riding, consists of the townships of Artemesia, Bentinck, Egremont, Glenelg, Normanby, Osprey and Proton, the town of Durham, and the incorporated villages of Dundalk and Markdale.
64. Wellington, North Riding, consists of the townships of Arthur, Minto, Maryborough, Peel and West Luther; the towns of Harriston, Mount Forest and Palmerston, and the incorporated villages of Arthur, Clifford and Drayton.
65. Wellington, South and Centre Ridings, consists of the townships of Guelph, Eramosa, Erin, Nichol, Pilkington, West Garafraxa and Puslinch; the city of Guelph, and the incorporated villages of Elora, Fergus and Erin.

NOTE.—The townships hereinbefore mentioned include all towns and incorporated villages situated within the limits thereof respectively.

R.S.O. 1897, c. 136, Sched. P; 2 Edw. VII. c. 12, s. 19; 2 Edw. VII. c. 16, s. 1.

No. 171.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting the Registration of
Instruments relating to Lands.

First Reading 24th day of February, 1910.

Mr. For

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting the Registration of Instruments Relating to Lands.

- SHORT TITLE, s 1.
 INTERPRETATION, ss. 2, 61, (6).
 APPLICATION OF LAND TITLES ACT,
 s. 4.
 Land in Provisional Judicial
 Districts, s. 5.
 REGISTRY DIVISIONS, ss. 5-7.
 REGISTRARS AND DEPUTIES:
 Appointment, security of, etc.,
 ss. 8-16.
 Duties, ss. 17-22.
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 To be furnished by County,
 ss. 23-25.
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 limits of the Registry Di-
 vision or removal of Regis-
 trar, ss. 26, 27.
 Copies of, when too old for
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 46.
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 53.
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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Registry Act*," R.S.O. 1897, c. 136, s. 1.

Interpretation. 2. In this Act,

"Certificate of amalgamation of loan corporations."

(a) "Certificates of Amalgamation of Loan Corporations" shall include a copy certified under the hand of the Registrar of Loan Corporations of the certificate of assent and declaration referred to in section 45 of *The Loan Corporations Act* and of any document mentioned in such certificate and a certificate issued for the purpose of registration under any Act of the Legislature authorizing or ratifying an agreement for the purchase and sale of the assets, or for the amalgamation of loan corporations. 63 V., c. 19, s. 3, *part*.

"County."

(b) "County" shall include a city, a Provisional Judicial District and any part of a county, district or city set apart for judicial or registration purposes.

"Inspector."

(c) "Inspector" shall mean the Inspector of Registry Offices.

"Instrument."

(d) "Instrument" shall include every Crown grant, and Order in Council of the Dominion and of Ontario, every deed, conveyance, mortgage, assignment of mortgage, certificate of discharge of mortgage, assurance, lease, bond, release, discharge, power of attorney, under which any such instrument is executed, every bond or agreement for the sale or purchase of land, will, probate of will, grant of administration, caution under *The Devolution of Estates Act* or renewal thereof, municipal by-law, certificate of proceedings in any Court, judgment or order of foreclosure, and every other certificate of judgment or order of any Court affecting any interest in or title to land, and certificate of amalgamation of loan corporations, every certificate of payment of taxes, granted under the corporate seal of the county, city, or town by the treasurer, every sheriff's and treasurers's deed of land sold by virtue of his office, every contract in writing, every commission and proceeding in lunacy, bankruptcy and insolvency, every plan of a survey or subdivision of land and every other instrument whereby

land may be transferred, disposed of, charged, incumbered or affected in any wise, affecting land in Ontario.

- (e) "Land" shall include lands, tenements, hereditaments and appurtenances and any estate or interest therein. "Land."
- (f) "Power of Attorney" shall include a revocation or alteration thereof and an appointment of a substitute thereunder. "Power of Attorney."
7 Edw. VII., c. 29, s. 4.
- (g) "Will" shall include codicil, probate of will and exemplification, and notarial or prothonotarial copy of a will, or of a probate of a will, and letters of administration with the will annexed, and a devise whereby land is disposed of or affected. "Will."
R.S.O. 1897, c. 136, s. 2.

3. Subject to the provisions of The Land Titles Act, after a certificate of the first registration of the owner under that Act, Application of Land Titles Act. if the Act has been registered as prescribed by that Act, this Act shall cease to apply to the land mentioned in the certificate. See R.S.O. 1897, c. 138, s. 18.

4. No instrument affecting land in a Provisional Judicial District which has been patented since 31st December, 1887, or which shall hereafter be patented shall be registered under this Act. Land in Provisional Judicial District.
See R.S.O. 1897, c. 109, s. 76 (1).

5.—(1) The registry divisions now existing, as set forth in Schedule "A," shall be continued. Registry Divisions and Registry offices.

(2) Where a new county or district is formed the same shall constitute a registry division.



(3) Where a registry division includes the whole or part of the county or district town the registry office shall be situate therein and in other cases shall be situate at such place as the Lieutenant-Governor in Council shall direct.

(4) Where a registry office is in the opinion of the Lieutenant-Governor in Council inconveniently or unsafely situated, he may direct that a new registry office be erected on a new site to be approved by him. R.S.O. 1897, c. 136, ss. 3 and 8.

6. In the case of the City of Toronto the instruments mentioned in subsection 6 of section 23, shall be registered in the registry division of West Toronto. General register for City of Toronto.
R.S.O. 1897, c. 136, s. 7.

County Councils to provide fire-proof offices and vaults.

7.—(1) For the safe-keeping and protection of all books, memorials, duplicates, and other instruments of whatever description and plans belonging to the office of Registrar, the council of every county where, at any time there are no safe and proper fire-proof offices and vaults provided by the council, or where hereafter any registry office is established, or where under the provisions of section 5 the Lieutenant-Governor in Council has directed a change of site, shall provide, furnish, maintain and keep in good repair a safe and fire-proof registry office, fire-proof vaulted, upon a plan and on a site to be approved by the Lieutenant-Governor in Council; and the council shall keep the registry-office furnished with fuel and furniture and in good repair and properly heated, lighted, cleaned and ventilated.

(2) A town separated from a county for municipal purposes, and a city for which there is no separate registry office, shall bear *such equitable* proportion of the expense incurred under subsection 1  as the inspector shall direct.  R.S.O. 1897, c. 136, s. 9; 1 Edw. VII., c. 15, s. 3. *Amended.*

Registrar to provide for vaults, etc., when directed by Inspector.

(3) Except where in this Act it is otherwise provided, the Inspector may in writing authorize the registrar, under the direction of an architect named by the Inspector to expend out of the proportion of the fees to which the county or city may then or thereafter be entitled under sections 104 and 106, in providing adequate fire-proof or metal fittings for the vault of the registry office or for the proper heating and ventilation of the vault so much as may be deemed by the Inspector to be necessary, and the amount so expended, including the architect's charge, shall be certified by the Inspector, and his certificate or a duplicate thereof shall be transmitted by the registrar, to the treasurer of the county or city, and shall be a discharge to the registrar of the amount so certified, as against the proportion of the fees then payable or to become thereafter payable by him. 1 Edw. VII., c. 15, s. 1; 7 Edw. VII., c. 29, s. 19.

Municipality may provide typewriting machines.

(4) The Corporation of any county or city charged with the duty of providing books for use in a registry office may provide typewriting machines for use in copying instruments in the registry books. *New.*

REGISTRARS.

Registrars, how appointed, etc.

8. There shall be a registrar for every registry division who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure. R.S.O. 1897, c. 136, ss. 10 and 11.

Registrar's seal.

9. Every registrar shall have a seal of office to be approved of by the Inspector. R.S.O. 1897, c. 136, s. 28, *part.*

10.—(1) The Lieutenant-Governor in Council may fix ^{Amount of security to be given.} and determine the amount of the security to be furnished by each registrar.

(2) The amount of such security shall ~~be~~ except in the case of a request of a registry division in a Provisional judicial district, ~~and~~ be not less than \$4,000, nor more than \$10,000. R.S.O. 1897, c. 136, s. 12.

11. The Lieutenant-Governor in Council, upon the application of any county or city interested, or without such application, may require any registrar to furnish additional security in such form and for such an amount as the Lieutenant-Governor in Council determines to be sufficient to secure the due payment of any moneys payable by the registrar to the county or city. R.S.O. 1897, c. 136, s. 17. ^{Lieutenant-Governor may require Registrars to give security.}

12. The registrar and his sureties shall be jointly and severally liable upon and to the extent of the security furnished to any aggrieved person to indemnify him against any damage or loss sustained by him, by or through the neglect or misconduct of the registrar or his deputy in the performance of the duties of his office, but this provision shall not exempt the registrar from any further responsibility to a person sustaining such damage or loss. R.S.O. 1897, c. 136, s. 19. ^{Liability of registrars and their sureties.}

13. Every registrar, before he enters upon the duties of his office shall take and subscribe the oath, Form 1, which shall be transmitted by him to the Provincial Secretary. R.S.O. 1897, c. 136, s. 20. ^{Registrar's oath of office.}

14.—(1) The registrar may by writing under his hand and seal of office, appoint a deputy or deputies, who may perform all the duties required under this Act in the same manner and to the like effect as if done by the registrar. ^{Appointment of deputies.}

(2) In case of the death, resignation, removal from or forfeiture of office of the registrar, the deputy registrar, or if more than one, the senior deputy registrar, shall do and perform all and every act, matter, and thing necessary for the due execution of the office, until a new appointment of registrar is made, and if there is no deputy registrar the Crown Attorney shall be the registrar *pro tempore* until another person is appointed and the Crown Attorney on becoming registrar may appoint a deputy registrar. ^{Power of deputy in case of death or removal of registrar.}

(3) The registrar *pro tempore* shall be answerable for the execution of the office during such interval, and any security ^{Temporary officer to be responsible.}

ity given by the registrar shall be and stand as security for the due and faithful performance of the duties of his office by the registrar *pro tempore*. R.S.O. 1897, c. 136, s. 21.

Deputy's oath of office.

15. Every deputy registrar before he enters on the duties of his office, shall take and subscribe the oath appointed to be taken by the registrar, or an oath to the like effect, which oath he shall forthwith transmit to the Provincial Secretary. R.S.O. 1897, c. 136, s. 22.

Registrars or deputies, etc., not to act as agents for persons taking securities on real estate, or in selling land, or advise as to titles, etc., in their Counties.

16.—(1) No registrar or deputy registrar or clerk in his office shall, directly or indirectly, act as the agent of any corporation, or person investing money and taking security on land within his county, nor advise, for fee or other reward, or otherwise, upon titles to land, or practise as a conveyancer, or act as an agent for the sale of land, within his county, nor, subject to the provisions of subsection 4, shall he carry on or transact within the registry office, any other business or occupation whatever.

(2) No registrar, deputy registrar or clerk in a registry office shall take any proceeding under a power of sale in a mortgage or other instrument affecting land, nor shall he personally or as a member of a firm carry on a loaning business or be in any way connected with a firm which transacts any business with the office of the registrar.

(3) No registrar, deputy registrar or clerk in a registry office shall practise as a barrister, solicitor, physician or surgeon.

(4) Subsection 3 shall not apply to registrars appointed before the 27th day of May, 1893, but a registrar appointed before that date whose annual net income from his office exceeds \$1,000 shall not carry on practice as a physician or surgeon during office hours other than a consulting practice, or out of office hours other than a consulting or office practice at his home. R.S.O. 1897, c. 136, s. 23.

DUTIES OF REGISTRARS.

Work in registry office to be personally supervised by registrar.

17. The registrar shall reside within ten miles of his office, and the work of the office shall be conducted and carried on under the direction and immediate supervision of the registrar. R.S.O. 1897, c. 136, s. 23 (3) and 24.

Hours of attendance at office.

18.—(1) Except as hereinafter in this section provided the registrar or his deputy shall attend at his office from the hour of ten o'clock in the forenoon until four o'clock in the afternoon, every day in the year, holidays excepted,



and no instrument shall be registered on any holiday nor shall any instrument be received for registration except within the hours above named.

(2) The registrars for the East Division of the City of Toronto, the West Division of the City of Toronto, the Registry Division of East and West York, the County of Wentworth, the County of Carleton, the City of Ottawa, and the City of London, or their respective deputies, shall attend at their offices on Saturdays, from the hour of ten o'clock in the forenoon until one o'clock in the afternoon and no longer, and no instrument shall be received for registration on that day except within those hours.

Of registrars for Toronto, York, Wentworth, Carleton, Ottawa and London on Saturday.

(3) From the 1st day of July to the 31st day of August, both days inclusive, none of the other registrars shall, after one o'clock in the afternoon on Saturdays, register any instrument, nor shall any instrument be received for registration, nor shall it be obligatory to attend at his office after that hour. R.S.O. 1897, c. 136, s. 26; 8 Edw. VII., c. 33, s. 36. *Amended.*

Office hours of other registrars on Saturday during long vacation.

19.—(1) The registrar shall, when required, and upon being tendered his proper fees, make searches and furnish abstracts of or concerning all instruments or memorials registered which mention any lot of land as described in the patent thereof from the Crown, or any lot described by number or letter on any registered plan subsequent to the registration of the plan, or any part of a lot where the same is clearly described and can be identified in connection with the chain of title, or has been as-
certained by actual survey  and of and concerning all instruments registered, as may be requested of him in writing, if a writing is demanded by him; and he shall exhibit any original registered instrument, and also the books of the office relating thereto when a personal inspection thereof is desired, and shall give extracts certified under his hand of and concerning the parties to any of such instruments, or of the witnesses to the same, or any other particulars which may be required, but no registrar shall allow any such book or instrument to be taken out of his possession or custody.

Registrars to make searches and abstracts.

To exhibit originals of instruments, etc.

To certify copies, etc.

(2) Every abstract furnished by a registrar shall be commenced and certified to in the words following:—

Registry Office, County of

Abstract of title

I certify that the above (or the following) are correct extracts from the only instruments registered in this office which mention or refer to (*describe property sufficiently for identification*). This abstract does not purport to give entries from the General Register.

Certificate of registrar on abstracts.

Dated at this day of 19 , at the hour of





Registrar, or Deputy-Registrar. (L.S.)

R.S.O. 1897, c. 136, s. 27 (1), (2).

Fees to be
stated on
abstract.

(3) The fees for every abstract shall be stated on the face thereof and shall show the items making up the amount of such fees. R.S.O. 1897, c. 136, s. 118, paragraph 5, *part*.

If requested
discharged
mortgages
and expired
liens to be
omitted from
abstract.

(4) The registrar, when requested in writing to do so by the person requiring an abstract of title, shall omit from it mortgages  and assignments thereof in respect of which instruments purporting to be discharges are entered in  by the abstract index and mechanics' liens, in respect of which an action has not been brought, and a certificate thereof registered as required by *The Mechanics' and Wage Earners' Lien Act*, or any other class of instrument mentioned in the request,  and in such case the certificate of the registrar shall be varied accordingly.  *New*.

Persons
searching not
to use ink for
copying.

20. A registrar shall not permit any person other than his officers or employees to use ink or other indelible fluid or substance for the purpose of making copies of or extracts from an instrument, document, book, paper or record in the Registry Office, or of any matter therein contained. R.S.O. 1897, c. 136, s. 118, par. 2 *part*.

Non-liability
for certain
errors or
omissions.

21. A registrar shall not be liable in respect of entries of instruments or errors or mistakes in the entries of instruments or omissions by any of his predecessors in office, nor for any defect or inaccuracy in any abstract or certificate arising from such error, mistake or omission, unless he had become aware or had knowledge of such error, mistake or omission, or unless such abstract or certificate shall be defective or inaccurate to the knowledge of the registrar or his deputy or the clerk by whom it is made or signed. R.S.O. 1897, c. 136, s. 27 (3).

Registrar to
furnish certi-
fied copies.

22.—(1) On request of any person the registrar shall furnish a certified copy under his hand and seal of office, of any instrument or memorial deposited, registered, or filed, and kept in his office.




Not bound to
produce any
papers, except
on order of
a Judge.

(2) No registrar or deputy registrar shall be required to produce any instrument or document in his custody as registrar or deputy registrar, unless ordered by a Judge of one of the Courts of Ontario, which order shall be produced to the officer issuing the subpoena requiring such production, and shall be by him noted in the margin of the subpoena. R.S.O. 1897, c. 136, s. 28.

[As to filing a certified copy in Court in lieu of original produced on subpoena, see *The Evidence Act*, sec. 48.]

BOOKS OF OFFICE.

Treasurer to
provide proper
books.

23.—(1) The treasurer of every county  and the treasurer of every  city  for which there is a separate

registry office shall provide a fit and proper registry book for each township, city, town, and village, and for each town plot laid out by the Crown, and all index and other books required for the business of the registry office.

(2) All registry books shall be as nearly as may be of the like size and description as those heretofore furnished, and shall continue to be of one uniform size as nearly as practicable.

(3) From the time the books are so provided and received at the registry office, the registrar shall keep and cause to be used for that purpose, a separate registry book for and of each township, city, town and village and for each town plot laid out by the Crown, within his registry division. General registry book.

(4) Except in the case of the Registrar of East Toronto, the registrar shall also keep a general registry book herein called the general register for the whole of the Registry Division, which shall be used for the purposes hereinafter set forth, and in which book an alphabetical index of the names of all the parties mentioned by name in every instrument entered therein shall also be kept.

(5) Where before the 7th day of April, 1896, wills had been recorded in the separate books of a registry division, but not in the general register when the same ought to have been recorded therein, the Inspector may, by order in writing, direct that an alphabetical index shall be prepared and kept of the names of all persons mentioned by name in such wills and designating the book or books and the pages thereof in which such wills are recorded, and the treasurer shall, for such index and the preparation thereof, pay to the registrar such sum as the Inspector may order in writing. Index of wills omitted from general registry book. R.S.O. 1897, c. 136, s. 29.

(6) The general register shall be used for recording wills, probates, grants of administration, and powers of attorney in which there is a general devise or power affecting land without local description, and claims for lien under *The Mechanics and Wage Earners' Lien Act* against land which constitutes the line of railway or right of way of a railway company, and also certificates of amalgamation of loan corporations. 62 V. (2), c. 16, s. 1; 63 V. c. 19, s. 1; 7 Edw. VII., c. 29, s. 3. General registry book, what to be used for.

(7) When a registrar requires a new registry book, or any other book for the use of his office, the same shall, on his application therefor, in writing, be furnished to him by the treasurer, and all books so furnished shall be paid for by the treasurer. New books.

(8) All books so furnished, used and kept, shall be the property of His Majesty.

(9) The Inspector, when, for the despatch of business he finds it necessary, may, by order in writing, permit more than one registry book to be in use at the same time for the same municipality.

If the treasurer neglects to provide books.

24.—If the treasurer refuses or neglects to furnish any such book within thirty days after application therefor, the registrar may provide the same and recover the cost thereof from the municipal corporation of the county or city in default. R.S.O. 1897, c. 136, s. 30.

Registrar to certify books.

25.—The registrar shall certify, Form 2, respecting each register or other book so furnished or provided. 7 Edw. VII. c. 29, s. 5.

Provision where territory attached to or new registry division formed.

26.—(1) Where from any cause territory not embraced in a registry division becomes part of it, or where a new registry division is established the registrar of the registry division from which such territory becomes detached shall deliver to the registrar of the registry division which it comprises or of which it becomes part

Certain books, instruments and plans to be transferred.

- (a) The registry books and all other books and indexes which have been kept according to law exclusively for such territory or any part of it;
- (b) The original memorials of all instruments and documents relating exclusively to land within such territory;
- (c) All maps of municipalities within such territory deposited according to law in his office;
- (d) An abstract index book of all instruments relating to land within such territory registered before separate registry books were kept for each township or place;
- (e) A proper registry book containing full and complete copies of all memorials and other registered instruments affecting such land which are not under the provisions of clause (b) required to be delivered;
- (f) Another proper registry book containing copies of all wills and other instruments registered in a general register in which the names of any of the parties to them have been entered in the alphabetical index kept for any part of the territory;

- (g) A copy of the alphabetical index attached to any such general register.

(2) The copies mentioned in clause (e) of the next preceding subsection shall be entered in the registry book in the same order in which they are entered in the original registry book, and the registrar shall write on the margin of such first mentioned book opposite to the entry of each memorial or instrument the number of it and the time at which the same was registered as appears by the indorsement thereon. Copies to be entered according to original order.

(3) Each registry book to be delivered shall have or be accompanied by an alphabetical index of names. Books to be indexed.

(4) The registrar shall carefully compare all entries made in the registry books which he is required to deliver with the original entries in the registry books in his office, and shall write and sign a certificate that he has done so in each book before delivering it. Comparing and certifying books.

(5) The registrar who receives any original memorial or instrument under the provisions of this section which is not copied in any registry book delivered to him shall cause the same to be copied in a proper registry book. Entering instruments not copied.

(6) A registrar who fails to perform the duties imposed on him by the preceding subsections of this section within six months after the territory is detached from his registry division, or within any extended period allowed by the Inspector under the provisions of subsection 7 shall incur a penalty not exceeding \$400. Penalty for neglect to deliver books, etc.

(7) The Inspector may extend such period of six months for a further period not exceeding six months. R.S.O. 1897, c. 136, ss. 32 and 33; 8 Edw. VII., c. 33, s. 34. *Amended.*

27.—Where a registrar is removed from or resigns his office, he shall forthwith deliver up all books, plans, instruments, memorials and indexes in his possession as registrar to the person who is appointed registrar in his stead, or to any other person who may be appointed in writing, by His Majesty's Attorney-General for Ontario to receive the same, and if the registrar refuses to do so, the Attorney-General may direct the sheriff of the county to seize and take immediate possession of the same wheresoever found, and the registrar so offending shall incur a penalty not exceeding Registrar removed or resigning to deliver up books to new registrar, etc.

Penalty
in case of
refusal.

\$2,000, and in the discretion of the Court may also be imprisoned for any period not exceeding one year. R.S.O. 1897, c. 136, s. 34.

When any
book becomes
unfit for fur-
ther use copy
to be made.

28.—(1) Where any book from age or use, is becoming obliterated or unfit for future use, the Inspector shall, by direction in writing under his hand, order *that it be* re-copied in a book of the same description as that prescribed by section 23, so far as the same can be deciphered by examination thereof and of the original instruments or memorials relating thereto.

Original to be
preserved.

(2) Such book having the order of the Inspector inserted at the beginning, and having the affidavit or declaration of the registrar or his deputy, at the end, to the effect that *it* is a true copy of the original book, shall be accepted and received as the original, and as *prima facie* evidence that the copy is a true copy, but the original book shall nevertheless be carefully preserved.



Repairs of
books, maps,
etc.

(3) The Inspector may order any book which is out of repair to be repaired in such manner as he thinks necessary; and may order plans and maps deposited in any registry office to be copied, mounted or bound, and to be preserved in such manner as he thinks necessary.

Inspector may
order dupli-
cate or new
abstract in-
dexes.

(4) The Inspector may order as many counterparts or copies of any abstract index book to be made as he shall deem necessary for the public convenience, and may order new abstract indexes to be made when the indexes in use have become complicated or otherwise inconvenient.

And new
surveys
and plans.

 (5) When authorized so to do by the Lieutenant-Governor in Council, the inspector may order new surveys and plans to be made of any locality or territory in a registry division which, in his judgment, have become necessary, whether such locality or territory has or has not been subdivided according to a registered plan. R.S.O. 1897, c. 136, s. 35. 62 V. (2), c. 16, s. 2. 

Payment for
services under
ss. 26 and 28.



29. Subject to the provisions of section 30, the fees and expenses for services rendered under sections 26 and 28, shall be paid by the treasurer of the county; and a town separated from the county for municipal purposes and a city for which there is not a separate registry office shall pay to the county such equitable proportion thereof as the Inspector shall direct. See R.S.O., c. 136, s. 118.



Fees for pre-
paring plans,
etc., for muni-
cipalities.

30. The inspector may order the expenses of new surveys and plans, and the registration thereof under the provisions of section 28, to be paid by the treasurer of any local municipality concerned, or in part by the county treasurer and in part by the treasurer of the local municipality, and the

local municipality may, subject to the order of the Inspector, cause such expenses or part thereof to be levied by assessment on all rateable property comprised in the portion of the municipality affected by such plan or survey. R.S.O. 1897, c. 136, s. 118, par. 9; 62 V. (2), c. 16, s. 19.

31.—(1) The registrar, in a book, Form 3, called the ^{Abstract index of lots.} "Abstract Index," shall enter under a separate and distinct head each separate lot or part of a lot of land as originally patented by the Crown, or as defined on any registered plan of the subdivision of such land into smaller sections or lots.

(2) Every instrument which mentions such parcel or lot of land or other subdivision, the names of every party to such instrument and the nature of it, the registration number for each municipality in which land mentioned therein is situate, and the day, month, and year, of its registration, the consideration of mortgage money mentioned in it, and such a description of the land therein mentioned as will readily identify its location, shall, in addition to all entries by law required, be entered by the registrar  in the abstract index  in regular order under the proper heading of each separate parcel or lot of land. R.S.O. 1897, c. 136, s. 36.

32. Every registrar shall also keep, for each township, city, town, and village,  and for each town plot laid out by the Crown,  an alphabetical index of names, Form 4, ^{Alphabetical index of names for each locality.} exhibiting in columns the number of each instrument, the names of the grantors, and the names of the grantees. R.S.O. 1897, c. 136, s. 37.

INSTRUMENTS THAT MAY BE REGISTERED.

33. Except as herein otherwise provided and subject to ^{Instruments which may be registered.} the provisions of the next following section, all instruments mentioned in section 2 may be registered. R.S.O. 1897, c. 136, s. 38.

34.—(1) Except as provided by subsection 6 of section 23, no instrument which affects land without local description, shall be registered unless the instrument when offered for registration, in addition to the ordinary proofs for registration, has attached to it a statutory declaration by one of the parties to the instrument or by his attorney under registered power of attorney or by the heirs, executors or administrators of such party, to the effect that the instrument affects land within the *registry division*, and giving a local or general description of such land, sufficient to enable the same to be traced or ascertained by a surveyor, and thereupon such instrument shall be *recorded* in the proper separate registry book and particulars thereof entered in the abstract index ^{Instruments affecting lands without local description.}

and in all other books in the same manner as if the instrument itself had contained the local description of the land.

Registration of instruments in general register and separate registry books.

(2) Where an instrument affecting land without local description is, under this section, recorded in the separate registry books, it may be further recorded and entered therein so as to affect other land by local description, by the registration of a statutory declaration, Form 15, to be made by any of the persons in this section mentioned.

Registry of statutory declaration as to lands affected.

(3) Where an instrument has been or is recorded in the general register, particulars thereof may be recorded in the separate registry books by the registration of a like statutory declaration.


Who may make declaration for a corporation.

(4) Such last-mentioned statutory declaration shall be recorded in the proper registry books, and particulars thereof entered in the abstract index and in all other books in the same manner as upon the registration of an instrument which affects land by local description.



Meaning of "local description."

(5) Any statutory declaration in this section mentioned may, where one of the parties to an instrument is a corporation, be made by an officer thereof, or where one of the parties entitled to make a declaration is absent from Ontario, it may be made by his solicitor. 62 V. (2), c. 16, s. 1; 63 V., c. 19, ss. 1, 2.

(6) In this section "local description" shall mean a local or general description of land sufficient to enable the same to be traced or ascertained by a surveyor. 7 Edw. VII., c. 29, s. 3.

 (7) Except mortgages, incumbrances or liens made or given, the original nominee of the Crown or any person through whom a person obtaining letters patent for land derived title, no instrument affecting unpatented land shall be registered. R.S.O. 1897, c. 31, s. 28.

Proof for registration.

35.—(1) An instrument other than a will, grant from the Crown, Order in Council, by-law or other instrument under the seal of any corporation, certificate of judicial proceedings or an instrument which may be registered by deposit of a certified copy shall not be registered unless accompanied by an affidavit, Form 5, of a subscribing witness  not being a party to the instrument,  as to the execution of the instrument by each party who appears to have executed the same, setting forth the name, place of residence, addition, occupation or calling of the witness, and deposing to—

(a) The execution of the original and of the duplicate, if any, by the party to whose execution thereof he is a witness;

(b) The place of execution by such party;

(c) That he knows that the person who executed the instrument in his presence is the party to the instrument as to whose execution thereof he deposes;

(d) That he is a subscribing witness to the instrument.

(2) The affidavit shall be made on or securely attached to the instrument. R.S.O. 1897, c. 136, ss. 40, 41 and 42; 7 Edw. VII., c. 29, s. 6.

(3) An instrument may be registered notwithstanding that the Christian name or names of the subscribing witness making the affidavit is or are only set forth therein by initials or abbreviation, and not in full. R.S.O. 1897, c. 136, s. 45. Name of witness need not be set forth in full in affidavit.

(4) The proof of the execution of an instrument made before the day this Act comes into force, which was sufficient proof for registration before that day, shall be sufficient proof for registration under the provisions of this Act. *New.*

36. An instrument, not purporting to convey the land therein mentioned, but which in its nature is, or purports to be given as a security for the payment of a debt or liability incurred by the person executing the same in respect of a purchase or delivery of any goods or in respect of an advance or loan of money, shall not be registered unless the affidavit of execution, Form 6, states that the instrument was read over and explained to the person executing the same, and that he appeared perfectly to understand the same, and was informed that it might be registered as an incumbrance on his land. R.S.O. 1897, c. 136, s. 43. Affidavit of execution in case of instruments given in respect of purchase or delivery of goods.

37.—(1) Every affidavit made under the authority of this Act shall be made before the registrar or deputy registrar of the registry division in which the land lies, or before some person authorized by law to take affidavits in or for use in Ontario. Before whom to be sworn in Ontario.

(2) Where an affidavit of execution is made out of Ontario before a person who has not an official seal, it shall be sufficient for him so to certify. R.S.O. 1897, c. 136, s. 46; 7 Edw. VII. c. 29, s. 7.

[See *The Interpretation Act*, s. 20, and *The Evidence Act*, s. 38.]

Affirmation or declaration in certain cases.

38. The proof may be by affirmation or declaration, when the person before whom the same is made certifies that by the law of the country where the proof is made an affirmation or declaration may be substituted for an affidavit. R.S.O. 1897, c. 136, s. 48.

Parties not to take affidavits.

39. No person authorized to take affidavits shall take an affidavit of the execution of an instrument to which he is a party; nor shall such an affidavit be taken from a witness, unless the witness has subscribed his name in his own handwriting as such witness. R.S.O. 1897, c. 136, s. 49.

Witnesses to sign.

Witnesses compellable to make affidavit.

40. Every subscribing witness shall be compellable, by order of a Judge of the Supreme Court or of a County or District Court, to make affidavit or proof of the execution of an instrument for the purpose of registration, and to do all other acts necessary for that purpose, upon being paid or tendered his reasonable expenses therefor. R.S.O. 1897, c. 136, s. 47.

Witnesses insane, absent, etc.

41. Where the witnesses to an instrument are dead or are out of Ontario, or have become insane, idiotic, imbecile, or of unsound mind or understanding, and whether so found by inquisition or not, or where an instrument, not by law requiring an attesting or subscribing witness thereto, has been executed without an attesting or subscribing witness, or if it is proved that the place of abode or residence of such first mentioned witnesses is unknown, any person who is or claims to be interested in the registration of the instrument, may make proof before any Judge of any County or District Court, of the execution of the instrument, and upon a certificate, Form 7, being endorsed on the instrument and signed by the Judge, the registrar shall register the instrument and certificate. R.S.O. 1897, c. 136, s. 50.



Seal of Court or seal of Corporation with signature of officer to suffice for registration.

42. The seal of a Court of Record affixed to an instrument, of itself, and the seal of a corporation affixed to an instrument with the signature of the secretary, manager, or attorney or presiding officer thereof, shall be sufficient evidence for the purpose of registration, of the due execution of the instrument by the Judge, or the officer of the Court signing the same, or by the corporation. R.S.O. 1897, c. 136, s. 51; 63 V. c. 19, s. 4.

Judgment affecting lands may be registered.

43. Every judgment or order affecting land may be registered in the registry office of the registry division in which the land is situate, on a certificate signed by the proper officer of the Court setting forth the substance and effect of the judgment or order, and the land affected thereby. R.S.O. 1897, c. 136, s. 52.

[As to registering and vacating certificates of *lis pendens*, see *Judicature Act, Cap. 51, secs. 97 to 100.*]

44.—(1) Where an instrument is registered, the registrar shall deliver a certified copy or copies thereof as may be required of him, and of all the documents connected with or relating to the same, under his signature and seal of office, and in his certificate he shall state the time, place and other particulars of registration, and that the copy which he so delivers is a true copy of the instrument, and of all the other documents connected with or relating to the same of which they respectively purport to be copies,  and in the case of a will that the affidavit proving the due execution of it is deposited in his office.  R.S.O. 1897, c. 136, ss. 53 and 70 (4).

Registrar to deliver certified copy of registered instruments.

(2) Every such certified copy may be registered in any other registry office, by deposit thereof, without production of the original instrument, and without proof other than the production of the copy so certified. R.S.O. 1897, c. 136, s. 54.

Registration of certified copy.

(3) Where an instrument is deposited in an office of Land Titles, or is registered in the office of the Clerk of a County or District Court, a copy thereof certified by the officer in whose office it is deposited or registered, may be registered in any registry office in the same manner as a copy of an instrument certified by a registrar. R.S.O. 1897, c. 136, s. 55.

(4) A power of attorney or other instrument conferring authority upon an officer or person to act for an incorporated company, executed by the company and deposited in the office of the Provincial Secretary, may be registered by the deposit of a copy thereof certified by the Provincial Secretary or his Deputy or Assistant and without production of the instrument or proof of the execution thereof. See 8 Edw. VII., c. 33, s. 35.

Registration of powers of attorney deposited in land titles offices.

[As to evidence by certified copy, see *The Evidence Act, ss. 46 and 47.*]

45. A notarial copy of an instrument executed in the Province of Quebec, the original of which is filed in a notarial office according to the law of Quebec, and a prothonotarial copy of an instrument executed in Quebec may be registered and shall be treated under this Act for all purposes as if it were the original instrument, and such notarial or prothonotarial copy with the seal of the Notary or Prothonotary attached, shall be registered without any other proof of the execution of the original thereof. R.S.O. 1897, c. 136, s. 58.

Registration of notarial copies of instruments executed in Quebec.

INSTRUMENT IN FOREIGN LANGUAGE.



Registering
instruments
in foreign
languages.

46. Where an instrument or an affidavit of execution is written wholly or in part in a language other than English, there shall be produced with the instrument or the affidavit of execution a translation into English, together with an affidavit by the translator, stating that he understands both languages and has carefully compared the translation with the original, and that the same is in all respects a true and correct translation, and the registrar shall not enter the instrument or affidavit in the language in which it is written, but shall copy from the translation. R.S.O. 1897, c. 136, s. 59.

MANNER OF REGISTERING.

Generally.

Instruments
to be re-
gistered in
full unless
otherwise pro-
vided.

47.—(1) Unless otherwise provided every instrument which may be registered under this Act shall be registered upon and by delivery to and deposit with the registrar of the instrument or of a duplicate or other original part thereof with all necessary affidavits and  unless otherwise provided every such instrument  shall be recorded at full length in the proper book, including every certificate and affidavit accompanying it, except registrar's certificates. R.S.O. 1897, c. 136, s. 60.

Fees payable
before regis-
tration.

(2) The registrar shall not be bound to receive for registration or to register an instrument unless the proper fees are first paid. R.S.O. 1897, c. 136, s. 123.

Mortgages
not registered
in full.

48.—(1) When a mortgage has endorsed upon it the words "not to be recorded in full," the mortgage shall not be copied into the registry book.

(2) The mortgage shall be numbered as other instruments are required to be numbered in the registry book in its proper order, and the marginal note made as required by section 53, and the registrar shall at the time of the registration enter opposite the number in the registry book the words "Mortgage not recorded in full" and shall also give the date and names of the parties to the mortgage. R.S.O. 1897, c. 136, s. 61 (1-2).

Fee on
registration.

(3) The fee payable for registration not including more than four distinct parcels of land, having a separate heading in the abstract index, shall be \$1, and for each additional parcel requiring entry to be made under a separate heading in the abstract index, five cents.

Fee on regis-
tration of
mortgage not
registered in
full.

(4) Where the mortgage embraces two or more parcels of land situate in different municipalities in the same registry division, there shall be paid a further fee of twenty-five cents

for each municipality after the first. R.S.O. 1897, c. 136, s. 61 (3); 62 V. (2), c. 16, s. 3.

(5) After the registration of the mortgage, the registrar, ^{Subsequent} upon the application of any person claiming to be interested ^{registry in} in the mortgaged land, and upon payment of the prescribed fees, less the amount already paid for registration, shall cause such mortgage to be recorded in full in the registry book. R.S.O. 1897, c. 136, s. 61 (4).

(6) The registrar shall indicate in the abstract index in the case of the registration of a mortgage endorsed "Not to be recorded in full," that the same has not been recorded in full and where it has afterwards been recorded in full under the provisions of subsection 5, the registrar shall note in the abstract index opposite the entry, "subsequently recorded in full," giving the date of recording and the number and page of the registry book. 62 V. (2), c. 16, s. 4. ^{Entry in abstract index where mortgage not registered in full.}

(7) In this section the word "mortgagee" shall include ^{"Mortgagee" and} the assignee of a mortgage and a person obtaining any security coming within the terms of section 36, and the word ^{"mortgage."} "mortgage" shall include an assignment of a mortgage and an agreement to extend the time for payment of a mortgage or any such security. 5 Edw. VII., c. 13, s. 11.

49.—(1) No instrument purporting to be signed or executed by any person by attorney shall be registered unless at or before the time of registration, the original power of attorney, or a copy thereof certified for registration, is registered in the same registry office, but when such power of attorney or a certified copy thereof cannot be produced, proof may be made before a judge of any County or District Court of the execution of the instrument and upon a certificate, Form 7, being endorsed on the instrument and signed by the judge that he is satisfied by the proof adduced of the due execution of the instrument the registrar shall register the instrument and certificate. ^{Registration of power of attorney when instrument executed by attorney.}

(2) Where an instrument, signed or executed by any person by attorney, is registered, the registrar shall enter a note of the fact of such signature or execution by attorney, giving the name of the attorney, on the abstract index and on all abstracts of title thereafter furnished by him relating to the land affected by the instrument. R.S.O. 1897, c. 136, s. 62. ^{Special entry to be made when instrument executed by attorney.}

(3) Subsection 1 shall not apply to instruments purporting to be executed by attorneys or commissioners for the Canada Company, the Trust and Loan Company of Canada, the ^{Exception.}

Scottish Ontario and Manitoba Land Company, the North British Canadian Investment Company, the North of Scotland Canadian Mortgage Company, Limited, or the Scottish American Investment Company. 62 V. (2), c. 16, s. 5; 63 V. c. 19, s. 5.

Instrument in two or more parts.

50. Where an instrument in two or more original parts is registered the registrar shall endorse upon each of such parts a certificate of the registration, Form 8, and any part so certified shall be received as *prima facie* evidence of the registration of the instrument and of the due execution of the same. R.S.O. 1897, c. 136, s. 63.

Instruments relating to several lots in different localities.

51. Where an instrument includes parcels of land situate in different municipalities in the same registry division it shall only be necessary to furnish the instrument or one original part of the instrument, with an affidavit of its execution, and the instrument and affidavit shall be copied into the registry book for each municipality or place wherein any of the land therein mentioned is situate, and the registrar shall make the necessary entries and certificates. R.S.O. 1897, c. 136, s. 64.

Copying into registry book.

Filing instrument and affidavit.

Certificate and its effect.

52.—(1) When an instrument is registered the registrar shall make an entry thereof in the abstract and alphabetical index books, and record the instrument in the registry book, in the order in which it is received, and file the same with the affidavit of execution and any other affidavit or certificate accompanying it, and shall endorse on every such instrument and upon every duplicate or other original part of it a certificate, Form 8, and shall therein mention the year, month, day, hour and minute in which the instrument was registered, stating in what book the same has been recorded, and the registration number, and shall sign the certificate, which shall be allowed and taken in all Courts as evidence of the respective registries.

Registrar to see that all copies in registers are correct.

(2) The registrar shall see that all copies of instruments in the registry books are true copies, and he or his deputy or clerk shall certify all such copies by writing "examined and certified true copy" in the margin opposite every copy in the book, appending his initials *and the date*.

(3) When a registry book is completed, the registrar, his deputy or clerk, shall at the end thereof show by a statutory declaration that the copies contained in such book and certified by him, are true copies of the original instruments of which they purport to be copies. R.S.O. 1897, c. 136, s. 66.

53. Every page of the registry book, and every instrument recorded therein, shall be numbered, and the year, month, day, hour and minute of registration shall be entered in the margin of the registry book, Form 9, and the entry shall be signed by the registrar or his deputy. Pages and instruments to be numbered. Minute of registration in margin. R.S.O. 1897, c. 136, s. 67.

Crown Grants.

54. Grants from the Crown shall be registered by producing the grant or an exemplification thereof with a true copy thereof with an affidavit verifying such copy, and the copy shall be deposited with the registrar, and the correctness of it shall be verified by the registrar or his deputy. Crown grants. R.S.O. 1897, c. 136, s. 68.

Orders in Council.

55. Orders in Council shall be registered by depositing a copy of the Order certified by the Clerk of the Council. Orders in Council. R.S.O. 1897, c. 136, s. 69.

Wills.

56.—(1) A will shall be registered.

(a) By the production of the original will and the deposit of a true copy thereof with an affidavit verifying such copy and with an affidavit sworn to by one of the *subscribing* witnesses to the will proving the due execution thereof by the testator, or Registration of wills.

(b) By the production of probate or letters of administration with the will annexed, or an exemplification or certified copy thereof, under the seal of any Court in Ontario, or in Great Britain and Ireland, or in any British province, colony, or possession, or in any foreign country having jurisdiction therein, and by depositing a true copy of the probate, letters of administration, or exemplification or certified copy with an affidavit verifying such copy. R.S.O. 1897, c. 136, s. 70 (1); 7 Edw. VII., c. 29, s. 8.

(2) The correctness of the sworn copy shall be verified by the registrar or his deputy. *New.*

(3) Where a will is registered by the production of the original will, the affidavit of the subscribing witness or of some other person shall state that the testator is dead. Proof of testator's death. R.S.O. 1897, c. 136, s. 70.

✍️ (4) Unless with the consent in writing of the Treasurer of Ontario, an original will or an exemplification or certified copy of probate or letters of administration with the will annexed under the seal of any Court in Great Britain and Ireland, or in any British province, colony or possession, or in any foreign country, having jurisdiction therein, shall not be registered under this section unless accompanied by a certificate of the Registrar of the Surrogate Court of the county in Ontario where the deceased had a fixed place of abode, or where the lands, or any of them, devolving by the will are situate, showing that a statement has been filed with him similar to that required by section 11 of *The Succession Duty Act*, and such certificate shall be deposited with the registrar. 📄

Letters of Administration.

Registration
of letters of
administra-
tion.
Rev. Stat.
c. 127.

57. Letters of administration which under *The Devolution of Estates Act* affect land, shall be registered in the same manner as a probate of a will. R.S.O. 1897, c. 136, s. 71.

Notice of Sale under Mortgage.

Registration
of notice of
sale.

Rev. Stat.
c. 121.

58.—(1) A notice of sale of land under the provisions of *The Mortgages of Real Estate Act*, and a notice of exercising the power of sale contained in any mortgage 📄 and the affidavit or declaration of service thereof may be registered and the same 📄 shall be registered in the same manner as an instrument affecting land, but it shall not be necessary to record the notice or the affidavit or declaration of service attached thereto in the registry book.

Proof for
registration.

(2) The affidavit or declaration shall be made by the person who served the notice, and shall prove the time, place and manner of such service, and that the copy delivered to the registrar is a true copy of the notice served.

Certified copy
to be
evidence.

(3) A copy of the registered notice and affidavit or declaration certified under the hand and seal of office of the registrar shall be *prima facie* evidence of the service of the notice as stated in the affidavit of declaration. R.S.O. 1897, c. 136, s. 72. *Amended.*

Proof of
notice of sale
under mort-
gage.

(4) Where the person who served the notice is dead or out of Ontario, or where it is proved to the satisfaction of a Judge of a County or District Court, that the place of abode of such person is unknown, or that he is incapable of making an affidavit or declaration of service or where service of such notice has been or is duly admitted any person who is or who claims to be interested in the registration of the

notice may make proof before the judge of the service of the notice, and upon a certificate of such judge endorsed on or attached to the notice and signed by him to the effect that from the proof adduced by the person producing the proof, naming him, he is satisfied of the due service of the notice, the registrar shall register the notice and certificate. 62 V. (2), c. 16, s. 6, *part*; 63 V., c. 19, s. 6.

(5) Where the notice cannot be produced to be registered any person who is or who claims to be interested in the registration of the notice may make proof before the judge of the service thereof, and of the inability to produce the same and upon depositing a certificate of such judge to the effect that, from the proof adduced by the person producing the proof, naming him, he is satisfied of the due service of the notice upon the person served, naming him, and that the same cannot be produced the registrar shall register the certificate, and a copy of such certificate under the hand and seal of the registrar shall be *prima facie* evidence of the facts therein stated.

Where notice of sale lost and cannot be produced.

(6) Where a notice of sale or a certificate of a judge under subsections 4 or 5 has been registered, the same may be registered in any other registry office by depositing a copy thereof, certified in the manner provided by section 44. 63 V., c. 19, s. 7.

[As to Registration of Orders and Judgments for Ali-mony, see Cap. 51, sec. 35; as to Registration of Notice of Seizure by Sheriff of a Mortgage, see The Execution Act.]

Instruments executed before the 1st January, 1866.

59. The registration of an instrument executed before the 1st day of January, 1866, may be made through a memorial or by certificate or otherwise, as provided by the law in force before that date. R.S.O. 1897, c. 136, s. 73.

Registration of instruments executed before 1st Jan., 1866, etc.

60. The proof that would before the first day of January, 1866, have been sufficient for the registration of an instrument executed before that date, shall be sufficient for the registration hereafter of any such instrument, but the instrument shall be recorded at full length, and the memorial and affidavit shall be deposited with the registrar in lieu of the original. R.S.O. 1897, c. 136, s. 74.

Proof of registration of instruments in full executed before 1st Jan., 1866, etc.

61.—(1) An instrument which has been registered by memorial, and has endorsed thereon a certificate of the registration thereof, may be re-registered in the same or any other registry division by the production of the original in-

Registration of instruments in full when memorials previously registered.

strument and by the deposit of a copy with an affidavit verifying the same.

(2) The registrar shall record the instrument, the affidavit of verification and the certificate of former registration at full length and shall write in the margin of the registry book the words "Original not deposited," and where the former registration was made in the same office, the registrar shall write upon the entry of the memorial in the registry book a memorandum as follows:—"Re-registered and recorded in full as No. _____," giving a reference to the number and registry book where the instrument is recorded in full, and he shall also note the re-registration in red ink wherever the memorial is entered in an abstract index.

(3) The registrar shall also endorse upon the original instrument a certificate of the re-registration, Form 8. R.S.O. 1897, c. 136, s. 75.

Discharges of Mortgages.

Satisfaction of mortgage, as registered

62. In the case of a registered mortgage, the registrar on receiving a certificate, Form 10, executed by the mortgagee, or if the mortgage has been assigned, then by the assignee, or by such other person as may be entitled by law to receive the money and to discharge the mortgage, and duly proven in the manner provided for the proof of other instruments, shall, if the assignment or other document of title of the assignee or other person executing the certificate has been registered, register the same, and record it and every affidavit attached to or endorsed on it, at full length in the proper order, in the registry book, and number it in like manner as other instruments are required to be registered, recorded and numbered, and the certificate when registered shall be a discharge of the mortgage, and shall be as valid and effectual in law as a release of the mortgage, and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor. R.S.O. 1897, c. 136, s. 76; 7 Edw. VII., c. 29, s. 9.

Effect of such registration.

63. Where a loan corporation which has acquired the assets of another loan corporation by amalgamation of such corporation and the certificate of such amalgamation has been registered desires to discharge any of the mortgages of such corporation it shall be sufficient to set forth in the instrument to be registered the fact of the assent of the Lieutenant-Governor in Council to such amalgamation with the date of the certificate of amalgamation and its registered number in the registry division in which the land affected is situate or men-

tioning the Act by which the loan corporations were amalgamated or by which the agreement was ratified and upon registration of the discharge the registrar shall enter in the abstract index the facts mentioned in the discharge. 63 V., c. 19, s. 3, *part.*

64.—(1) Where a mortgage has been paid off by any person advancing money by way of a new loan on mortgage on the same land and the mortgage so paid off or the discharge thereof is held by the mortgagee making the new loan, the discharge of the mortgage so paid off shall be registered within six months from the date thereof, unless the mortgagor shall, in writing, have authorized the retention of the discharge for a longer period.

Registration of discharge when mortgage paid off by a new loan.

(2) The registration shall not affect the right (if any) of the mortgagee who may have paid off such mortgage, his assignee, or any person claiming under him by purchase or otherwise, to be subrogated to the rights of the mortgagee, whose mortgage debt has been so paid. R.S.O. 1897, c. 136, s. 77.

65.—(1) Where the person entitled to receive the mortgage money and to discharge a registered mortgage is not the original mortgagee, he shall, at his own expense cause to be registered before the registration of the certificate of discharge all the instruments or documents through which he claims interest in and title to the mortgage moneys, and until such instruments or documents are registered the registrar shall not register such certificate of discharge.

Registration of discharge given by person other than the mortgagee.

(2) The certificate shall mention the date and the date of registration and the registration number of each of the instruments, or documents through which the person executing the certificate claims interest in and title to the mortgage moneys, and the names of the parties thereto.

(3) This section shall apply to powers of attorney where the certificate of discharge or prior instrument or document is executed by attorney, provided that it shall be sufficient in the certificate of discharge to state the date of each instrument, document or power of attorney and the names of the parties thereto and to endorse on the certificate the date of registration and registration number of each instrument, document, or power of attorney, which endorsement shall be signed by the person who signed the certificate or his attorney or agent and the endorsement shall be deemed to be part of the certificate. R.S.O. 1897, c. 136, s. 78 (1); 62 V., (2), c. 16, s. 7; 7 Edw. VII., c. 29, s. 10.

Registering
probate or let-
ters of admin-
istration.

(4) Where probate of will or letters or administration with the will annexed, is required to be registered under this section, and the will is over seven folios in length, including the probate or letters, and does not affect land in the registry division, except in so far as the testator was the holder of a mortgage, it shall not be necessary to record the will at full length; but it shall be sufficient to deposit a copy of and record so much of the probate or letters as shows the grant of probate or letters and the appointment of executors or administrators.

(5) The copy shall be accompanied by an affidavit of the executors or administrators, or of one of them, or of his or their solicitor, verifying it and stating that there is nothing in the will limiting the right of the executors or administrators to receive the mortgage money and discharge the mortgage, and that the will does not affect land in the registry division in which the probate or letters is to be registered, except in so far as the testator was the holder of a mortgage comprising land in such registry division. R.S.O. 1897, c. 136, s. 78 (2).

Application to
Judge for or-
der to register
instruments
authorizing
discharge to
be given.

(6) Where the person whose duty it is to register such instruments or documents refuses or neglects to register the same within fifteen days after payment of the mortgage money to him, the person entitled to redeem the mortgage may on giving ten days' notice in writing to the person so refusing or neglecting, apply in a summary manner to a Judge of the County or District Court of the County or District wherein the land or any part thereof mentioned in the mortgage is situate for an order directing that the person so refusing or neglecting shall within a time to be fixed by the Judge, register such instruments or documents at his own expense, and the Judge upon being satisfied by affidavit or oral evidence that the application is a proper one may make the necessary order.

(7) On being satisfied of the due service of the notice the Judge may proceed in the absence of the person so refusing or neglecting.

(8) The notice shall state that it is given in pursuance of this section. R.S.O. 1897, c. 136, s. 79. *Amended.*

Release of
part only of
lands mort-
gaged.

66.—(1) Where the holder of a mortgage desires to release or discharge part of the land comprised in it, or to release or discharge part of the money secured by the mortgage, he may do so by deed or by certificate to be made, executed, proven, and registered in the same manner and with

the like effect to the land or money released or discharged as when the whole land and mortgage are released and discharged.

(2) The deed or certificate shall contain as precise a description of the land released or discharged as is required in an instrument of conveyance for registration, and also a precise statement of the particular sum so released or discharged. R.S.O. 1897, c. 136, s. 82.

67.—(1) Where a sheriff, bailiff of a Division Court or other officer, under a writ or warrant of execution against goods, seizes a mortgage belonging to the person against whose goods the writ or warrant has issued, on or affecting land in Ontario, the payment of the mortgage money in whole or in part to the sheriff, bailiff, or other officer by the mortgagor or any other person or any person claiming under him, shall satisfy the mortgage to the extent of such payment. Discharge of mortgage seized under execution.

(2) After payment of the mortgage money or any part thereof, the sheriff, bailiff, or other officer shall, at the request and expense of the person requiring the same, give a certificate, Form 11, under the hand and seal of office of the sheriff or other officer, or under the hand of the bailiff and the seal of the Court of which he is bailiff. Form of certificate of discharge.

(3) Upon the written request of the bailiff the clerk of the court shall affix to the certificate the seal of the court; and he shall file the request of the bailiff in his office. Seal of Division Court.

(4) The execution of the certificate shall be proved in the same manner as in the case of other instruments affecting land and the certificate shall be registered in the same manner as other certificates of discharge. Proof of execution of certificate.

(5) The certificate when registered, if the same is of payment in full of the mortgage, shall be as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor. Effect of certificate.

(6) The certificate when registered, if the same is of payment of only a part of the mortgage money, shall be as valid and effectual in law as a release of the mortgage as to such part, as if executed by the execution debtor. R.S.O. 1897, c. 136, s. 83. Effect of certificate of part payment.

68. Instruments of the nature mentioned in section 36 may be discharged, and the land affected thereby released Discharge of instrument given in relation to purchase of goods.

therefrom by depositing in the proper registry office a certificate of discharge, Form 12. R.S.O. 1897, c. 136, s. 85.

By-Laws, etc.

Registration of by-laws passed since 29th March, 1873.

69.—(1) Every by-law passed since the 29th day of March, 1873, or hereafter passed by a municipal council under the authority of which any street, road, or highway is opened upon any private property, shall before the same becomes effectual in law, be registered in the registry office of the registry division in which the land is situate; and the same shall be registered without further proof by depositing a copy, certified under the hand of the clerk and the seal of the municipality. R.S.O. 1897, c. 136, s. 86 (1); 62 V. (2), c. 16, s. 8.

As to by-laws etc., relating to roads made before 29th March, 1873.

(2) Every by-law passed before the 29th day of March, 1873, and every order and resolution of the Quarter or General Sessions of the Peace passed before that day under the authority of which any street, road, or highway, has been opened upon any private property, may at the election of any person or municipality interested and at the cost and charges of such person or municipality, be registered, by depositing a certified copy of the by-law under the hand of the clerk and the seal of the municipality, or a certified copy of the order or resolution of the Quarter or General Sessions, under the hand and seal of the Clerk of the Peace.

By-laws, etc. changes in municipal boundaries.

(3) Every by-law, proclamation, Order-in-Council, Order of the Ontario Railway and Municipal Board and other instrument of a public or *quasi* public nature whereby a village, town or city becomes incorporated, or the boundaries of any municipality are enlarged, diminished or altered, shall be registered in the proper registry office by the municipality passing or procuring the same, and a copy of a by-law certified under the seal of the corporation, and by the head and the Clerk of the municipality, and a copy of the proclamation, Order-in-Council, Order of the Ontario Railway and Municipal Board or other instrument certified by the Clerk of the Executive Council or the Secretary of the Board, as the case may be, shall be sufficient proof for the purpose of registration. R.S.O. 1897, c. 136, s. 86 (2-3).

REGISTRATION AND ITS EFFECT.

Unregistered instruments after grant from the Crown to be void against subsequent registered purchaser or mortgagee.

70.—(1) After the grant from the Crown of land, and letters patent issued therefor, every instrument affecting the land or any part thereof shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration without actual notice, unless such

instrument is registered before the registration of the instrument under which the subsequent purchaser or mortgagee claims. R.S.O. 1897, c. 136, s. 87.

(2) This section shall not extend to a lease for a term not exceeding seven years where the actual possession goes along with the lease; but it shall extend to every lease for a longer term than seven years. R.S.O. 1897, c. 136, s. 39.

71. Priority of registration shall prevail unless before the prior registration there has been actual notice of the prior instrument by the person claiming under the prior registration. R.S.O. 1897, c. 136, s. 97.

72. No equitable lien, charge or interest affecting land shall be valid, as against a registered instrument executed by the same person, his heirs or assigns; and tacking shall not be allowed in any case to prevail against the provisions of this Act. R.S.O. 1897, c. 136, s. 98.

73. Every registered mortgage shall as against the mortgagor, his heirs, executors, administrators, assigns and every other person claiming by, through or under him, be a security upon the land comprised therein to the extent of the money or money's worth actually advanced or supplied under the mortgage, not exceeding the amount for which such mortgage is expressed to be a security, notwithstanding that the money or money's worth, or some part thereof, was advanced or supplied after the registration of a conveyance, mortgage or other instrument affecting the mortgaged lands, executed by the mortgagor, his heirs, executors or administrators, and registered subsequently to such first-mentioned mortgage, unless before advancing or supplying such money or money's worth the mortgagee in such first-mentioned mortgage had actual notice of the execution and registration of such conveyance, mortgage or other instrument; and the registration of such conveyance, mortgage or other instrument after the registration of such first mentioned mortgage, shall not constitute such actual notice. R.S.O. 1897, c. 136, s. 99.

See also c. 115, ss. 1 and 2.

74. The registration of an instrument, under this or any former Act shall constitute notice of the instrument, to all persons claiming any interest in the land, subsequent to such registration, notwithstanding any defect in the proof for registration, but nevertheless it shall be the duty of a registrar not to register any instrument, except on such proof as is required by this Act. R.S.O. 1897, c. 136, s. 92.

Instruments giving authority to sell and naming commission, not to bind land after one year from date.

75. An instrument which is or purports to be a power of attorney or authority to sell land, in which the commission, payment for services, or other remuneration of the attorney or agent is made a charge on the land, shall, as against a subsequent purchaser or mortgagee for valuable consideration, and as against the creditors of the person giving the power or authority, cease to charge the land with such commission, payment for services, or remuneration, after the lapse of one year from the making of the instrument. R.S.O. 1897, c. 136, s. 88.

Wills to be registered within twelve months from death of testator.

76. A will or the probate thereof, and letters of administration with the will annexed registered within twelve months next after the death of the testator shall be as valid and effectual against subsequent purchasers and mortgagees, as if the same had been registered immediately after such death; and in case the devisee, or person interested in the land devised in any such will, is disabled from registering the same within such time by reason of the contesting of such will or by any other inevitable difficulty without his wilful neglect or default, then, the registration of the same within twelve months next after his attainment of such will, probate or letters of administration, or the removal of such impediment, shall be a sufficient registration within the meaning of this Act. R.S.O. 1897, c. 136, s. 89.

Registry of deeds on sales for taxes and sales under process of Court.

77. A deed of land made by a treasurer or other officer, in pursuance of a sale for arrears of taxes shall be registered within eighteen months after the sale; and a deed of land sold under process issued from any Court, shall be registered within six months after the sale; otherwise any person claiming under any such sale shall be deemed not to have preserved his priority as against a purchaser or mortgagee for valuable consideration without actual notice who has registered his conveyance before the registration of such deed. R.S.O. 1897, c. 136, s. 90. *See also Cap. 224, sec. 204.*

Entries in index and corrections.

78.—(1) Except in the manner hereinafter provided, after an instrument has been entered in the abstract and alphabetical indexes, and has been recorded in the proper registry book, no entry shall be made in the abstract index or in the alphabetical index respecting such instrument; nor shall any alteration or correction be made in any entry previously made respecting any instrument, or in any copy of any instrument in any registry book.

(2) The registrar shall immediately after becoming aware of any omission or error in recording, cause to be made in

red ink such entries, alterations or corrections as are requisite; and a memorandum stating the date of every such entry, alteration or correction shall be made in red ink in the margin of the index or registry book opposite or near thereto; and such memorandum shall be signed by the registrar or his deputy. R.S.O. 1897, c. 136, s. 94.

79. An instrument capable of and properly proved for registration, shall be deemed to be registered when and so soon as the same is delivered either personally or by post to and received at his office during office hours by the registrar or some officer or clerk in his office on his behalf, and thereafter no alteration shall be made by any person in such instrument. R.S.O. 1897, c. 136, s. 96.

When instruments to be deemed registered.

(For penalty see s. 115.)

MISCELLANEOUS PROVISIONS.

Plans.

80.—(1) Where land is surveyed and subdivided for the purpose of being sold or conveyed in lots by reference to a plan which has not been already registered, the person making the survey and subdivision shall within three months thereafter register a plan of the land on a scale not less than 1 inch to every 4 chains.

Registration of plans when land subdivided.

(2) The plan shall show the number of the township, city, town or village lots and range or concession as originally laid out, and all the boundary lines thereof, within the limits of the land being subdivided except where such plan is a subdivision of a lot or lots on a former plan, in which case it shall show the numbers or other distinguishing marks of the lot or lots subdivided and the boundary lines thereof.

Scale of plan and what to shew.

(3) The number or other distinguishing mark and the width both front and rear shall be marked on each lot of the subdivision, the scale shall also be marked on the plan, and such information as will show the depth of the lots, and the courses of all the boundaries of, or the division lines between, the same and the governing line or lines to which such courses are referred shall also be indicated.

(4) The position of all the posts or monuments, if any, planted by the surveyor, or of other objects marking the boundaries of any of the lots or the corners thereof shall also be shown.

(5) The plan shall also show all roads, streets, railway lands, rivers, canals, streams, lakes, millponds, marshes or other marked topographical features within the limits of the land so subdivided, together with such other information as is required to show distinctly the position of the land. R.S.O. 1897, c. 136, s. 100 (1); 62 V. (2), c. 16, s. 9.

(6) On every such plan the lots shall be so described and designated by numbers, letters or words, that there shall not be more than one lot on such plan described and designated by the same number, letter or word, notwithstanding that the lots are on different sides of the same street or on different streets or in different blocks, and where the designation is by number the lots shall be numbered consecutively. 7 Edw. VII., c. 29, s. 11.

Plans to be mounted.

(7) The plan shall be mounted on stiff pasteboard of good quality, and when it exceeds thirty inches in length by twenty-four inches in width shall be folded so as not to exceed that size. R.S.O. 1897, c. 136, s. 100 (2).

Duty of Registrars thereafter.

(8) The plan, before being registered, shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the same is deposited, and shall also be certified by an Ontario Land Surveyor, Form 13.

(9) After the registration of the plan the registrar shall keep an index of the land described and designated by any number or letter on the plan, by the name by which it is so designated.

Instruments must conform to such plan.

Exceptions.

(10) Every instrument affecting the land or any part thereof, executed after the plan is registered shall conform and refer thereto, otherwise it shall not be registered, except in cases provided for by section 84, and except also that where a mortgage has been registered before the registration of the plan, any assignment, discharge, final order of foreclosure of the mortgage, vesting order or conveyance under a power contained in or exercisable under the mortgage, shall be registered against the land as described in the mortgage. R.S.O. 1897, c. 136, s. 100 (3); 62 V. (2), c. 16, s. 10.

Penalty for refusing to register plan.

(12) In the case of refusal or neglect by the person making the subdivision for two months after demand in writing for that purpose, to register the plan in accordance with the provisions of this Act when required by any person interested therein or by the Inspector so to do, he shall incur a penalty of \$20 for every calendar month which thereafter

elapses without the plan being registered, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 136, s. 101.

(13) The signature on a plan shall be witnessed and verified as in the case of an instrument. Verification of signature to plans.

(14) The registrar shall not register a plan which does not comply with the provisions of this Act; nor shall he register a plan on which a road or street less than sixty-six feet wide is laid out, unless the assent of the proper municipal council is registered therewith. Conditions as to registration of plans.

(15) The registrar shall not register a plan of a subdivision of land for which the Crown patent has not issued, unless the assent of the Minister of Lands, Forests and Mines to such registration is endorsed on the plan. Plans of unpatented lands.

(16) The registrar shall not register a plan of a subdivision of land, unless the person by whom or on whose behalf the same is tendered for registration appears on the registry books to be the owner of the land, nor unless the consent in writing of all persons who appear by the registry books to be mortgagees of the land is endorsed on the plan and signed by such person, or in the case of a corporation, by its chief officer, and such signatures are duly verified by affidavit. Registrar not to file plans for anyone but owner nor without consent of mortgagees.

(17) When any such plan has been so registered the registrar shall make a record of it, and enter on it the day and year on which the same is registered. R.S.O. 1897, c. 136, s. 102. Duty of the Registrar on receiving plan.

(18) The registrar shall not register any plan upon which any street, road or lane is laid out unless there is registered therewith the approval of the proper municipal council or the order of the Judge of the County or District Court of the county or district in which the land lies, approving of such plan made upon notice to such council. 8 Edw. VII., c. 33, s. 37.

(19) Subject to the provisions of section 85 this section shall apply as well to land already surveyed and subdivided as to that which may hereafter be surveyed and subdivided. R.S.O. 1897, c. 136, s. 103. Application of this section

81. The Inspector may direct that a plan index book in the form prescribed by him shall be kept by the registrar, and the Municipal Treasurer shall pay to the registrar on Plan index book.

the order of the Inspector such sum as he may *direct* for the preparation in the first instance of such book and the work incidental thereto. R.S.O. 1897, c. 136, s. 105.

Abstract index to subdivisions of townships, etc.

82.—(1) Whenever the Inspector deems that the public convenience so requires, he may direct the registrar to subdivide any township, park or other lots in a city, town or village into such blocks for abstract purposes, as having regard to conveyances registered upon such lots and otherwise, he considers most convenient; and in such case an abstract index shall be prepared by the registrar for each of such blocks as if the same had been originally a separate lot and the same shall extend from the Crown Patent onwards or from or to such other date as the Inspector may direct, and shall contain those registrations only which affect the subdivision to which the index relates. R.S.O. 1897, c. 136, s. 106 (1); 62 V. (2), c. 16, s. 11.

(2) Where the original lines of the lots do not form the boundaries of such blocks, public streets or such other limits as the Inspector directs shall be taken as the boundaries thereof.

(3) Where a plan of a subdivision of a lot or part of a lot has been or is hereafter registered, the registrar, when directed so to do by the Inspector, shall prepare an abstract of all instruments affecting the part subdivided, and enter the same in the page or pages of the abstract index book immediately preceding the abstract as to the first lot on such plan.

(4) Whenever and as often as a further subdivision of any of the lots on a plan is made, the registrar, when directed so to do by the Inspector, shall prepare and enter in like manner an abstract of all instruments affecting the part so subdivided from the registration of the previous plan.

(5) The registrar shall be allowed for preparing such abstracts, so far as the same relate to instruments registered prior to the Inspector's directing the subdivision, such amount as the Inspector may determine to be reasonable for the services, and the same shall be paid by the owner who registers the plan or by the county or city, as the Inspector may direct.

(6) For abstracts prepared for the purposes of plans hereafter registered, the registrar shall be entitled to receive from the persons registering such plans the prescribed fees for preparing an abstract in addition to the fees to be paid for registering such plans. R.S.O. 1897, c. 136, s. 106 (2-6).

83. No instrument referring to an unregistered plan shall be registered unless an instrument referring to such plan has been already registered in respect of the same land; and if the registrar objects to register an instrument on the ground that it refers to an unregistered plan, he may refuse to register such instrument unless the person desiring its registration refers the registrar to the number of an instrument previously registered in respect of the same land referring to the unregistered plan. R.S.O. 1897, c. 136, s. 107.

Registration of instruments referring to an unregistered plan.

84.—(1) Where an instrument which does not conform and refer to the proper plan has been duly executed and any party thereto has died, or where it would, in the opinion of the registrar, be impossible or inconvenient to obtain a new instrument containing the proper description, such instrument may be registered if accompanied by an affidavit, Form 14, annexed thereto or endorsed thereon.

When instruments not conforming to proper plan may be registered.

(2) The registrar shall thereupon enter such instrument in the abstract index in which the subdivision is entered under the lots designated in the affidavit, and no entry shall be made in the abstract index of the land before its subdivision. R.S.O. 1897, c. 136, s. 108.

85.—(1) A plan, although registered, shall not be binding on the person registering the same, or upon any other persons, unless a sale has been made according to such plan, and in all cases amendments or alterations thereof may be authorized or ordered to be made, at the instance of the person registering the same or his assigns, by a Judge of the High Court, or by a Judge of the County or District Court of the county or district in which the land lies, on application for the purpose, and upon hearing all persons concerned, upon such terms and conditions as to costs and otherwise as may be deemed just.

Plan not binding until some sale is made under it; alterations in plan.

(2) No part of a road or street upon which any lot of land sold abuts, or which connects any such sold lot with or affords means of access therefrom to the nearest public highway shall be altered or closed up, but nothing herein shall in any way interfere with the powers of municipalities in reference to highways. R.S.O. 1897, c. 136, s. 100 (4).

Provision as to streets.

Power of municipalities not interfered with.

(3) An appeal shall lie to the Court of Appeal from any order or decision made under this section. R.S.O. 1897, c. 136, s. 110.

Appeal.

86. In sales of land under surveys or subdivisions made before the 4th day of March, 1868, where such surveys or subdivisions so differ from the manner in which such land was

When plan must be registered in case of lands subdivided before 4th March, 1868.

surveyed or granted by the Crown that the parcel so sold cannot be easily identified unless the plan is registered, the plan shall be registered if still in existence and procurable for registration, and if it is not, a new plan shall be made by and at the joint expense of the persons who have made such surveys or subdivisions, and of all others interested therein, by an Ontario Land Surveyor, or as nearly as may be according to the proper original survey or subdivision, and the same when so made shall be registered as if under section 80. R.S.O. 1897, c. 136, s. 109.

Plans of cities, towns or villages to be registered in certain cases.

87.—(1) Where a city, town or village or territory, the inhabitants of which are not incorporated, comprises different parcels of land owned at the original division thereof by different persons, and the same were not jointly surveyed and one entire plan of such survey made and registered, the municipal council of the township within which such territory is situate, or of such city, town or village, upon the written request of the Inspector or of any person interested, addressed to the clerk of the municipality, shall immediately cause a plan of such city, town, village or territory to be made in accordance with this Act, and to be registered in the registry office of the registry division within which the municipality lies.


(2) The plan shall have endorsed thereon the certificates of the clerk and head of the municipality and the surveyor that the same is prepared according to the directions of the municipality and in accordance with this Act, and the corporate seal of the municipality shall be attached to the plan. R.S.O. 1897, c. 136, s. 111 (1).


Registration of plan of territory situate in more than one township.

(3) Where such territory is situate in two or more townships, the Inspector may, by a written order, cause the plan to be made and registered, and where the territory is situate in two or more registry divisions, a duplicate of such plan shall be registered in each of such registry divisions.

Certificate to be endorsed on plan.

(4) The plan shall have endorsed thereon the certificate of the surveyor that the same has been prepared according to the order of the Inspector, and such order or a copy thereof shall be attached to or endorsed on such plan; and any plan of territory situate in two or more townships heretofore prepared upon the request of the Inspector may, in like manner, be registered, and shall, when so registered, be as valid as if the same had been prepared upon the order of the Inspector.

 (5) The expense of the preparation and registration of a plan of territory, the inhabitants of which are not incorporated, situate wholly within one township may be paid

wholly or in part by the municipality out of its general funds, or the same may wholly or in part, at the option of the municipality, be paid by a special rate to be levied by assessment on all rateable property comprised in such territory described by metes and bounds in a by-law to be passed for the purpose of levying such rate. 

(6) The expense of the preparation and registration of a plan of territory the inhabitants of which are not incorporated situate in two or more townships shall be paid out of the general funds of the municipalities in which the territory is situate, in such proportions as the Inspector may order, and any municipality may levy its proportion of such expense, or so much thereof as the council sees fit, by assessment on all rateable property comprised in the part of the territory situate in such municipality as described by metes and bounds in a by-law to be passed for the purpose of levying such rate. Expenses of registering plan of such territory how apportioned.
62 V. (2), c. 16, s. 12.

(7) Upon the production to the registrar of a certificate signed by the head of the municipal council concerned certifying that a surveyor has been employed by the council to prepare a plan for registration under this section, the surveyor named in such certificate shall be entitled, within six months from the date thereof, to make personal searches of the books, plans and instruments in the registry office for the purpose of enabling him to prepare such plan on payment of the ordinary fees payable for searches and productions up to an aggregate amount not exceeding \$25, and for all further searches and production in excess of \$25, on payment of one-half of the ordinary fees. 7 Edw. VII., c. 29, s. 12.

(8) Except as in this section is otherwise provided, the expense of the preparation and registration of the plan shall be paid out of the general funds of the municipality. Payment of expenses.

(9) In case of the neglect or refusal of a municipality to comply with all the requirements of this section within six months next after being required so to do, the municipality shall incur a like penalty to that provided by subsection 12 of section 80, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 136, s. 111 (2); 62 V. (2), c. 16, s. 13.

(10) Where land in a township has been or shall hereafter be sold under surveys or subdivisions made in a manner which so differs from that in which such land was surveyed or granted by the Crown that the parcel sold cannot be easily identified, and the plan has not been registered under this or any other Act, the council of the township may upon the Registration of plans of township subdivisions in certain cases.

written request of the Inspector, or of any person interested, cause a plan of such land to be made and registered in the same manner and with the same effect as in the case of territory the inhabitants of which are not incorporated; and the expenses of the preparation and registration of the plan shall be paid by a special rate to be levied by assessment on the land comprised in such plan, as described in a by-law to be passed for the purpose of levying such rate. R.S.O. 1897, c. 136, s. 111 (3).

Plans of
municipalities
—what to be
shown on.

(11) A plan prepared under the provisions of ~~the~~ subsections 1 and 10 ~~shall~~ shall show such subdivisions of original lots as are shown by the registered plans, and such as are not so shown but appear from the instruments relating to such land, and the plan shall be prepared without adding to the costs thereof the expense of any actual survey on the ground except such as may be necessary to connect the subdivisions or parcels of land and to show any natural or artificial boundaries of the same which cannot be shown on the new plan from the information contained in the registered plans and instruments. 62 V. (2), c. 16, s. 14.

Obligations
not impaired.

(12) Nothing in this section shall relieve any person from any liability, duty, obligation or penalty provided or imposed by or under any of the provisions of this Act. R.S.O. 1897, c. 136, s. 111 (4).

Power of
County Judge
to order new
plans to be
filed.

(13) Where any land has been sold or conveyed in lots or parcels by metes and bounds, or in any other manner without a plan having been registered under this or any other Act showing such subdivisions or where parts of lots shown by a registered plan have been sold or conveyed, and the lots or parcels so sold or conveyed are not distinguished by numbers or letters, a Judge of the County or District Court of the county or district in which the land is situate, on the application of the Inspector, after such notice as the Judge may deem reasonable, may make an order directing the registrar to have the same, or any part thereof, laid out into lots or parcels in such manner and numbered as the Judge shall think fit, and a plan or plans thereof to be made in accordance with the records in the registry office, or from actual survey, as may be found necessary, and registered in accordance with the provisions of this Act, and the order of the Judge shall be endorsed on or attached to the plan and signed by him.

Costs.

(14) The costs and expenses of and incidental to the application and the plan and the registration thereof shall be borne by the person or municipality to be named by the Judge in the order.

(15) On filing the order with the clerk the same may be enforced as if it were a judgment of the court.

(16) The registration of the plan shall be binding on all persons subsequently dealing with the land or any part thereof included in the plan or any interest in or concerning the same, but shall not affect the rights or interests of any owner or other person entitled at or before the date of registration. Effect of registration.
R.S.O. 1897, c. 136, s. 111 (5); 62 V. (2), c. 16, s. 15.

(17) Where the land proposed to be subdivided by plan under subsection 13 comprises 5,000 acres or upwards, which was granted by the Crown without being subdivided into lots, the Inspector may cause the Attorney-General to be notified of the application, and the Attorney-General, on behalf of the Crown, may either submit that the Crown shall pay or contribute such part of the costs and expenses mentioned in subsection 14 as the Judge may determine to be reasonable, or the Attorney-General may consent, on behalf of the Crown, that the Crown shall pay and contribute a definite part of such costs and expenses, and in either of such cases the Judge may direct by what person or municipality the remainder of such costs and expenses shall be borne, and any such order may be entered and filed and may be enforced as against such person or municipality in the same manner as the order provided for in subsection 14. Contribution by Crown to sub-dividing and surveying blocks. 1 Edw. VII., c. 15, s. 2.

88.—(1) Every person who is required to register a plan shall with the plan deposit with the registrar a duplicate thereof, certified to be such by the surveyor who prepared the plan, and the registrar shall endorse on the duplicate a certificate shewing the number of such plan and the date when the plan was registered, and the duplicate shall without fee be delivered by the registrar to the clerk, treasurer or assessment commissioner of the local municipality in which the land is situate. Delivery of plans to municipal treasurers.

(2) The registrar shall not register any such plan unless a duplicate thereof is deposited in accordance with the provisions of this section. R.S.O. 1897, c. 136, s. 112; 7 Edw. VII., c. 29, s. 13.

Re-registration where Registry Books lost, etc.

89. Where the registry books and papers were before the 4th day of March, 1868, lost or destroyed, and a memorial cannot be produced, upon proof being made to that effect before a Judge of any Court of Record to his satisfaction as evidenced by a certificate under his hand, the Registrar may re-register an instrument upon production thereof, and no further proof shall be required than the original Re-registration in case registry books or papers are lost or destroyed.



certificate of registration endorsed on such instrument and the instrument shall have priority according to the date of the original certificate and shall be preserved by the Registrar with the records of his office. R.S.O. 1897, c. 136, s. 113, *part*.

90. Where memorials have not been copied into the registry books in their proper order, the Inspector may cause the same to be entered in proper books to be procured for the purpose, in the manner provided by section 23, and the registrar shall be paid therefor in the same manner as under clause (j) of section 91. R.S.O. 1897, c. 136, s. 113, *part*.

[*As to list of Crown Grants being furnished to Registrar, see Cap. 28, sec. 39, and as to proceedings where land patented is in territory under The Land Titles Act, see Cap. 138, sec. 169.*]

Fees of Registrars.

Fees.

91. A registrar shall be entitled to the following fees,  except where otherwise provided: 

For registra-
tions general.

(a) For the necessary entries and certificates in registering every instrument other than those hereinafter specially provided for, including among such certificates the certificate on the duplicate, if any, 40 cents.

(b) For registering every such instrument, \$1;

If the instrument exceeds 700 words, at the rate of 15 cents for each additional 100 words or fractional part thereof up to 1,400 words and at the rate of 10 cents for each additional 100 words or fractional part thereof over 1,400 words;

If the instru-
ment includes
different lots
in different
localities.

If the instrument embraces lots or parcels of land, situate in different municipalities in the same registry division, the registration and copying of such instrument together with all necessary entries and certificates in connection therewith, shall be considered separate and distinct registrations for each municipality in which the land is situate, and shall be paid for as follows:

Where the aggregate copying does not exceed 700 words, \$1.40; where it exceeds 700 words, 15 cents for every 100 words or fractional part thereof up to 1,400 words, in addition to the sum of \$1.40;

Where it exceeds 1,400 words, the sum of 10 cents for every 100 words or fractional part thereof in addition to the above charges; the fees shall include all certificates and necessary entries, but if the instrument embraces more than 4 different lots or parcels of land in the same municipality, the registrar shall be allowed a fee of 5 cents for entering each lot or parcel in excess of 4, but not to exceed \$5 for such entries up to 100 entries and where the instrument embraces more than 100 lots or parcels in the same municipality, the registrar shall be allowed an additional fee of 2 cents for entering each lot or parcel in excess of 100. R.S.O. 1897, c. 136, s. 118, par. 1; 7 Edw. VII., c. 29, s. 14.

- (c) For searching the registry books and indexes relating to the title of any lot or part of a lot as originally surveyed or patented by the Crown; or as afterwards subdivided into smaller lots, shown by any registered plan thereof, when not exceeding 4 references, 25 cents and 5 cents for every additional reference up to 50 references and 5 cents for every additional 2 references over 50; For searches as to title.

In no case shall a general search into the title to any particular lot, piece or parcel of land exceed the sum of \$3;

In this clause "reference" shall mean a search of a copy of an instrument in the register, and if the abstract indexes only are examined, the total fee for searching any such lot or part of a lot, including 4 references, shall be 25 cents;

"Lot" shall mean one parcel of land as originally patented by the Crown and where such parcel has been subdivided shall include any one of the lots in any such subdivision or re-subdivision, a plan of which has been registered;

No person shall make copies of or extracts from any instrument, document, book, paper or record in the registry office, or of any matter contained therein, to an extent in the aggregate exceeding 300 words for any one lot or part of a lot, except on payment (in addition to the fees for search) of 5 cents for each 100 words or fraction thereof in excess of 300 words;

Search to ascertain persons interested in lands divided subsequently to registration of mortgage.

Where subsequent to the registration of a mortgage the land in such mortgage has been subdivided by plan and searches are made for the purpose of ascertaining subsequent grantees or incumbrancers in sale, foreclosure or other proceedings under such mortgage, the person searching, on producing a statutory declaration that the searches are being made for that purpose, shall be entitled to make such searches on all the lots in the subdivision on payment of a fee of 10 cents for each lot, but so that the whole fee for searches shall not exceed \$2. R.S.O. 1897, c. 136, s. 118, par. 2; 62 V. (2), c. 16, s. 17; 7 Edw. VII., c. 29, s. 15.

Searching alphabetical index.

General search.

(d) For searching, if specially required, the alphabetical index of names referred to in section 32 as to each name in the books of any one township, or other municipality in the registry division, 25 cents; but if a general search as to any such name is made throughout the registry division, the aggregate of fees for such search shall not exceed \$1;

(e) For searching, if specially required, the general registry book for the whole registry division, referred to in section 23, as to each name, the sum of 25 cents. R.S.O. 1897, c. 136, s. 118, par. 3, 4;

Abstract titles.

(f) For an abstract of title to any specific parcel certified by the registrar containing such particulars as to any number of the registered instruments affecting such parcel as the applicant may require, 25 cents;

When such abstract exceeds 100 words, 15 cents for every additional 100 words;

For copies of instruments when required, 10 cents for each 100 words.

Where there are two or more lots for which abstracts are required and the entries on such lots are identical, the registrar shall not be entitled to make an abstract for each lot separately, but the abstracts of title of such lots shall be included in one abstract, and the fees therefor shall be the same as if the extract applied to one lot only, except that the registrar shall be

entitled in addition thereto to a fee of 25 cents for a search on each lot after the first lot, and for the first lot he shall be entitled to the same fees as are payable in respect of one lot;

Where there are two or more lots for which abstracts are required and the entries on such lots are partly identical, the registrar shall make a full abstract for one of the lots and enter in the same all the lots to which each instrument refers, and in the abstract of the other lots he shall only include entries affecting those lots separately. R.S.O. 1897, c. 136, s. 118, par. 5; 62 V. (2), c. 16, s. 18;

- (g) For each certificate furnished by the registrar, except a certificate under paragraphs *a* or *b*, 25 cents; Certificates.
- (h) For registration of any plan of city, town or village lots, including all necessary entries connected therewith, \$1; but if the plan embraces more than 20 lots, the registrar shall be allowed a fee of 5 cents for each lot in excess of 20, not to exceed in the whole \$5;
- (i) For searches as to the names of registered owners and as to mortgages under subsection 16 of section 80, in connection with the registration of a plan, the sum of \$1. R.S.O. 1897, c. 136, s. 118, pars. 6-8;
- (j) For furnishing the copies required under sections 26 and 28, 10 cents for each 100 words or fraction thereof; Statements under sections 26 and 28.
- (k) For repairing any book, or copying, mounting, or binding plans, or for new plans and surveys, or for new abstract indexes, such sums as the Inspector may order in writing, specifying the nature of the service. R.S.O. 1897, c. 136, s. 118, par. 9; 62 V. (2), c. 16, s. 19;
- (l) For drawing each affidavit and swearing the deponent thereto, 25 cents, and the same fee for administering the oath when that only is required. R.S.O. 1897, c. 136, s. 118, par. 10; Affidavits.
- (m) For exhibiting in the office each original registered instrument, including search for the same, 10 Showing originals.

cents; and for producing each original registered instrument, including search for the same, in pursuance of a Judge's order or subpœna, the sum of 10 cents in addition to the registrar's ordinary witness fees. R.S.O. 1897, c. 136, s. 118, par. 11; 62 V. (2), c. 16, s. 20;

Certificates of discharge of mortgage.

- (n) For registering a certificate of discharge of mortgage, including a certificate under section 68, and every other certificate excepting certificates provided for in paragraph o, including all entries and certificates thereof, 50 cents; if the certificate affects more than four lots or parcels, a fee of 5 cents for each lot or parcel in excess of four; if the certificate affects two or more lots or parcels in the same registry division, or if the certificate or aggregate copying thereof exceeds 300 words, 10 cents for each additional 100 words or fractional part thereof, not to exceed \$5 in the whole in any case for the registration of the certificate. R.S.O. 1897, c. 136, s. 118, par. 12; 62 V. (2), c. 16, s. 21;

Fees on registering discharges of mortgage.

Of payment of taxes.

- (o) For registering certificate of payment of taxes, 25 cents.
- (p) For registering certificate of amalgamation of loan corporations, together with a certified copy of any document mentioned in the certificate, \$4. 63 V., c. 19, s. 3, *part*.
- (q) For registering letters of administration, \$1. R.S.O. 1897, c. 136, s. 71, *part*.
- (r) For registering notice of sale of land under power in mortgage, 50 cents. R.S.O. 1897, c. 136, s. 72, *part*.
- (s) For registering an affidavit for registering instrument entered in general register, 50 cents. 63 V., c. 19, s. 2.

Fees in cases not provided for.

92. Where an Act of Ontario or of the Dominion of Canada requires or permits an instrument, document or plan to be deposited, filed or registered in a registry office or requires a registrar to perform any other duty but omits to provide fees to the registrar for his services in connection therewith, and no fees therefor are provided by this or any other Act, the registrar, in the absence of any express provision requiring him to perform such services gratui-

tously, shall be entitled to such reasonable fees therefor as the Inspector shall fix to be paid by the person requiring the service to be performed. 62 V. (2), c. 16, s. 22; 7 Edw. VII., c. 29, s. 16.

93. In abstracts and certificates where figures are used ^{figures.} instead of words to denote dates, numbers and quantities, the same shall be charged for as if each number, though composed of several figures, were but one word. R.S.O. 1897, c. 136, s. 118, pars 13-15.

94. Subject to any general rules made under the author- ^{Inspection of} ity of *The Land Titles Act*, a Master or Local Master of ^{books in} Titles may, by himself or by his clerks, without payment of ^{registry offices} fees, inspect all books and papers in a registry office for his ^{by Master or} own information as such Master, but this provision shall ^{Local Master} not apply to an application in which an abstract of title ^{of Titles.} obtained for the purpose of such application has not been filed. 4 Edw. VII., c. 10, s. 30.

95.—(1) Where a dispute arises in regard to any question ^{Disputes as} of fees under this Act, the registrar shall forthwith submit ^{to fees.} the same to the Inspector, and shall thereupon notify the person interested or his agent of such submission, and the decision of the Inspector upon the question submitted shall be final, unless appealed from and varied upon appeal, as hereinafter mentioned.

(2) All decisions given by the Inspector shall be in writing, and the appeal therefrom shall be in like manner, and subject to the same rules of practice as nearly as may be as an appeal from a Local Master. R.S.O. 1897, c. 136, s. 119.

96. Every registrar shall keep posted up in some con- ^{Table of fees} spicuous place in his office a printed schedule of the fees ^{to be posted} and charges authorized under this Act. R.S.O. 1897, c. ^{in Registrar's} 136, s. 120. ^{office.}

97. Every registrar shall upon request of the person ^{Registrar to} for whom the service is performed, furnish a statement in ^{give statement} detail of the fees charged by him in respect of any matter ^{of fees pay-} for which fees are payable under the provisions of this Act. ^{able in any} R.S.O. 1897, c. 136, s. 121. ^{matter.}

98. If the treasurer of a county or of a city in which a ^{Recovery of} separate registry office is established, on the request of the ^{fees from} registrar refuses or neglects to pay the fees and allowances ^{municipal} for any services required by this Act, and performed by ^{corporations.} him which such treasurer ought to pay, the registrar may sue for and recover the same from the corporation of the

Evidence. county or city in any court of competent jurisdiction; and the Inspector's certificate of the amount and of the services rendered shall be *prima facie* evidence of the right to recover. R.S.O. 1897, c. 136, s. 122.

Registrars to keep accounts of fees.

99.—(1) Every registrar shall keep a separate book in which he shall enter from day to day, all fees and emoluments received by him, showing separately the sums received for registering each instrument, and for searches, and for extracts or copies.

Registrar's annual returns.

(2) Every registrar shall annually, on or before the 15th day of January, make to the Lieutenant-Governor a return up to and including the 31st day of December of the next preceding year which shall show:

- (a) The number of instruments registered and the fees therefor;
- (b) The number uncopied and uncomparing;
- (c) The number of patents registered and fees therefor;
- (d) The number of deeds registered and fees therefor;
- (e) The number of mortgages registered and fees therefor;
- (f) The number of discharges of mortgages registered and fees therefor;
- (g) The number of wills registered and fees therefor;
- (h) The number of leases registered and fees therefor;
- (i) The number of abstracts and fees therefor;
- (j) The number of searches and fees therefor;
- (k) The number of mechanics' liens and fees therefor;
- (l) The number of all other instruments registered or deposited and fees therefor;
- (m) The amount received for work done for which the county, city, or other municipality is liable;
- (n) The amount received for other services not enumerated above;

- (o) The fees earned and not received;
- (p) The gross amount of fees earned for the year;
- (q) The gross amount earned for the previous year;
- (r) The amount paid to the deputy registrar for services and the amount of other charges in connection with the office paid by the registrar;
- (s) The amount of surplus paid to the county or city for the year and when paid;
- (t) The amount of such surplus for the previous year;
- (u) The net amount received by registrar.

(3) The return shall show the number of mortgages registered during the year

- (a) In which the consideration is nominal or not specified;
- (b) In which the consideration is \$1,000 or under;
- (c) In which the consideration is over \$1,000 and does not exceed \$2,000;
- (d) In which the consideration is over \$2,000 and does not exceed \$5,000;
- (e) In which the consideration is over \$5,000;
- (f) The aggregate amount of all such mortgages.
R.S.O. 1897, c. 136, s. 124.

(4) The return shall also contain such other information as may be prescribed by the Lieutenant-Governor in Council. *New.*

(5) The return shall be transmitted to the Provincial Secretary. *New.*

100. The registrar shall, upon request, furnish to the clerk or to the assessment commissioner or assessor of any municipality a list of all conveyances whereby land in the municipality has been transferred, which have been registered in his office during the next preceeding year or any part thereof, and in such list shall include the names of the grantor, the grantee, the consideration shown in each transfer, and a short description of the land conveyed, but shall

Registrar to furnish clerk or assessment commissioner with list of conveyances.

not include leases for less than twenty-one years, mortgages, discharges of mortgage, or other like instruments, and the registrar shall be entitled therefor to a fee of five cents for every instrument included in the list. R.S.O. 1897, c. 136, s. 125; 7 Edw. VII., c. 29, s. 17; 8 Edw. VII., c. 33, s. 38.

Payments by
Registrars on
gross income.

101.—(1) Every registrar shall be entitled to retain to his own use in each year all the fees and emoluments received by him in that year up to \$1,500.

Rev. Stat.
c. 138.

(2) Subject to the provisions of section 104 of this Act and of section 162 of *The Land Titles Act*, every registrar other than the registrars of East and West Toronto, and for the County of Wentworth, shall of the fees and emoluments received by him in each year pay to the treasurer of the county or city for which or for part of which he is registrar, the following percentages:

- (a) On the excess over \$2,500 up to \$3,000, ten per cent.;
- (b) On the excess over \$3,000 up to \$3,500, twenty per cent.;
- (c) On the excess over \$3,500 up to \$4,500, thirty per cent.;
- (d) On the excess over \$4,500, forty per cent.

Percentage of
net income
payable to
municipality.

Rev. Stat.
c. 138.

(3) Subject to section 104 of this Act and to section 162 of *The Land Titles Act*, every registrar, other than the registrars of East and West Toronto and for the County of Wentworth, of the net income of each year over \$1,500 shall further pay to such treasurer for the use of the municipality, the following percentages:—

- (a) On the excess over \$1,500 up to \$2,000, ten per cent.;
- (b) On the excess over \$2,000 up to \$2,500, twenty per cent.;
- (c) On the excess over \$2,500 up to \$3,000 thirty per cent.;
- (d) On the excess over \$3,000, fifty per cent. R.S.O. 1897, c. 136, s. 126; 9 Edw. VII., c. 26, s. 8 (1).

102.—(1) Subject to the provisions of section 162 of *The Land Titles Act*, the registrars of East and West Toronto shall each pay to the Treasurer of the City of Toronto and the registrar of the County of Wentworth shall pay to the Treasurer of the City of Hamilton and of the County of Wentworth, subject to the provisions of subsection 2 of section 104, of his net income of each year over \$1,500, the following percentages:—

- (a) On the excess over \$1,500 up to \$2,000, ten per cent.;
- (b) On the excess over \$2,000 up to \$2,500, twenty per cent.;
- (c) On the excess over \$2,500 up to \$3,000, thirty per cent.;
- (d) On the excess over \$3,000 up to \$6,000, fifty per cent.;
- (e) On the excess over \$6,000, ninety per cent.

(2) The deduction from the gross income for the expenses connected with the work of or in conducting the business of the offices of the registrars for East and West Toronto shall not be increased beyond the amount paid therefor in the year 1895, without the consent, in writing, of the Inspector. R.S.O. 1897, c. 136, s. 127; 9 Edw. VII., c. 26, s. 8 (2).

103. For the purposes of this Act, "net income" shall mean the excess of all fees and emoluments, including receipts in the current year, whether on account of the earnings or salary of such year or of any former year, after deducting the disbursements incident to the business of the office and after payment to the municipality of the percentages mentioned in subsection 2 of section 101. R.S.O. 1897, c. 136, s. 128.

104.—(1) On the fifteenth day of January in each year every registrar shall transmit to the treasurer of the county or city for which, or for part of which, he is registrar, a duplicate of the return required by section 99, and shall also pay to such treasurer for the use of the municipality the percentages required by this Act to be paid by him.

(2) Where a registry division includes a county or part of a county and a city or town separated from the county for municipal purposes, the percentages shall be paid to the treasurer of the county and to the treasurer of the city or

town for the use of the municipality in the proportions in which the gross fees and emoluments are derived from extracts, searches, registrations, and other charges in respect of land situate in the county, and in the city or town respectively. R.S.O. 1897, c. 136, s. 129.

Registrars to send statement of amounts paid to head of municipality.

105. Every registrar shall, on or before the seventh day of January in each year, transmit to the head of any municipality to which he has made payments in accordance with the provisions of this Act during the next preceding year a statement signed by him showing the amounts so paid and the dates of payment, and the head of the municipality receiving such statement shall cause it to be laid before the auditors when auditing the accounts of that year, and shall also read it at the first meeting of the council held after its receipt. 61 V., c. 23, s. 12.

Adjustment of percentage payable to municipality where registrar fills the office for part of year only.

106.—(1) Every registrar or person who fills the office of registrar and receives the fees and emoluments thereof for a part of any year shall, or in case of his death his executors or administrators shall, in respect of the fees and emoluments received by him during such part of a year, pay a proportion thereof to the municipal treasurer for the use of the municipality under sections 101, 102 and 104, such proportion to correspond to the part of the year during which he so filled the office and to be computed for such part of the year at the same rate as the registrar would have been required to pay if he had filled the office for the whole year and received the fees and emoluments and made disbursements incident to the business of the office for the whole of such year at the same rate as for the part of the year during which he filled the office.

(2) Every such registrar or other person, within fifteen days after the expiry of the part of the year for which he filled the office, and in case of his death his executors or administrators, within thirty days after his death, shall make a return under oath to the Lieutenant-Governor, up to and including the day of such expiry or death which shall contain all the particulars required by subsection 2 of section 99, for such part of the year and shall transmit the same to the Provincial Secretary, and shall also, at the same time, transmit to the treasurer a duplicate of such return, and pay to him for the use of the municipality such proportion of the fees and emoluments received by such registrar or other person during the part of the year herein referred to as are payable to such municipality.

(3) Subsection 2 of section 104 shall apply to the proportion of fees in this section mentioned. R.S.O. 1897, c. 136, s. 130.

107. In ascertaining the percentages payable under this Act there shall not be included in the fees and emoluments any sum receivable from a municipality for the preparation of abstract indexes, or for work done under sections 26 or 28 or subsection 5 of section 82 or section 100, nor shall anything in this Act apply to the fees or emoluments received on account of services as Returning Officer under *The Election Act of Ontario* or of Canada. R.S.O. 1897, c. 136, s. 131; 7 Edw. VII., c. 29, s. 18.

Certain fees not to be included in payments to municipalities.

108. The council of every county, city or separated town may by by-law authorize the warden, mayor or treasurer to inspect the books of office kept in any registry division in the county or city, for the purpose of testing the accuracy of the returns or computations of fees received by the registrar to a share or percentage of which the county, city or town is or may become entitled, and the registrar shall at all convenient times allow such books to be inspected for that purpose free of charge. R.S.O. 1897, c. 136, s. 132.

Inspection of registry books by municipal officers.

109. The amount to be allowed for the disbursements of a registrar shall be subject to the revision and determination of the Inspector. R.S.O. 1897, c. 136, s. 133.

Disbursement subject to revision of Inspector.

110.—(1) The Lieutenant-Governor in Council may make rules for the management of registry offices, and may, by such rules, confer on the Inspector such powers as may be deemed necessary for carrying out the provisions of this Act, and all other Acts relating to the duties of registrars.

Lieutenant-Governor may make rules

(2) Every such rule shall be laid before the Assembly within ten days from the making thereof if the Legislature is then in session and if not in session then within the first ten days of the session next after the making thereof. R.S.O. 1897, c. 136, s. 134.

INSPECTOR OF REGISTRY OFFICES.

111. There shall be an Inspector of Registry Offices, who shall be appointed by the Lieutenant-Governor in Council, and who, in addition to any other duties imposed by this Act, shall,

Appointment of Inspector, and his duties.

- (a) Make as often as practicable a personal inspection of the building in which each registry office is kept, and of the books, deeds, memorials and other instruments in each office; Inspection of building.
- (b) See that the proper books are provided, that they are in good order and condition, that the proper Books, etc.

entries and registrations are made therein in a proper manner and in a due and proper form and order, that the indexes are properly kept, and that all the memorials and other instruments are duly endorsed, certified and preserved;

Office hours. (c) Ascertain that the office is kept open at and for the proper times, and that it is at all times duly attended by the registrar or his deputy;

Seals of officials. (d) Settle on some uniform device for the official seals, and see that the registrars supply themselves therewith;

(e) Inspect all new abstract and alphabetical indexes, and settle and certify the sums, if any, chargeable therefor;

New indexes.

(f) Ascertain whether the proper plans required by this Act have been registered, and, where necessary, enforce the provisions of this Act as to the preparation and registration thereof, and instruct the Crown Attorney to take proceedings for that purpose;

Plans.

Reporting vacancies. (g) Report upon any vacancies by death or otherwise in the office of registrar or deputy registrar;

Instruction of registrar and his duties. (h) Inform the registrar how and in what manner he shall do any particular act or amend or correct whatever the Inspector may find amiss; and if he finds the work improperly performed, order a new book or books to be prepared and completed by the registrar at his own expense;

Sufficiency or insufficiency of sureties. (i) Ascertain the sufficiency of the security furnished the registrar.

Reporting to Lieutenant-Governor. (j) Report upon all such matters to the Lieutenant-Governor for his information and decision; and

(k) Perform such other duties as the Lieutenant-Governor in Council may prescribe. R.S.O. 1897, c. 136, s. 135.

Evidence on investigations by Inspector.

112. Where the Inspector in the performance of his duties under this Act has occasion to make an enquiry or to determine any matter he may require any person to give evidence on oath and for that purpose may summon such person to attend as a witness, may enforce his attendance, may compel him to produce books, documents and things.



and to give evidence in like manner as the High Court may in civil cases. 4 Edw. VII., c. 10, s. 31.

113. Every registrar shall transmit to the Inspector such particulars with reference to the business of his office as the Inspector may require. R.S.O. 1897, c. 136, s. 136. Registrars to furnish information to Inspector.




114. Where it appears to the Inspector that the work of a registry office is unduly in arrear, he may employ such assistance as he deems necessary to perform the work in arrear, and the cost thereof shall be payable by the registrar to the persons entitled, on the certificate of the Inspector. R.S.O. 1897, c. 136, s. 137. Duty of Inspector on finding work in arrear.

PENALTY FOR ALTERING BOOKS OR DOCUMENTS.

115. Any person, except the registrar or other officer, when entitled by law so to do, who alters any book, record, plan or registered instrument in any registry office, or makes any memorandum, word or figure in writing thereon, whether in pencil or in ink, or by any other means, or in any way adds to or takes from the contents of such book, record, plan or registered instrument, shall incur a penalty of not less than \$5 and not more than \$100, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 136, s. 95. Penalty for unauthorized alteration of entry.

 **116.** Notwithstanding anything herein until proclamation by the Lieutenant-Governor in Council to the contrary, all instruments affecting land in that part of the City of Toronto which formerly constituted the City of West Toronto shall continue to be registered in the registry office of the Registry Division of East and West York, and all books, instruments and documents relating to such land shall remain in that office. See 9 Edw. VII., c. 125, s. 1 (12); 9 Edw. VII., c. 26, s. 22.  Instruments affecting land in former City of West Toronto to be registered in East and West York.

REPEAL.

117. Chapter 136 of the Revised Statutes, 1897, excepting sections 7 (1) and (2), 80, 81, 91, 114, 115, 116 and 117, section 633 of *The Consolidated Municipal Act, 1903*, 3 Edw. VII. c. 19. and section 79 of chapter 109 of the Revised Statutes,  and all amendments to the said chapter 136,  except amendments to such excepted sections  are repealed.

118. This Act shall not come into force until the 1st day of September, 1910. Act to come into force on September 1st, 1910

FORM 1.

REGISTRAR'S OATH OF OFFICE.

County (or . I (*name and describe the deponent*), having been
 District) of appointed to the office of Registrar, in and for the
 To Wit: (*name of Registry Division, etc.*), do swear that I
 will well, truly and faithfully perform and execute
 all the duties required of me, under the laws of Ontario, pertain-
 ing to the said office, so long as I continue therein, and that I have
 not given directly or indirectly, nor authorized any person to give,
 any money gratuity or reward whatsoever for procuring the said
 office for me.

Sworn before me, etc.

A Commissioner, etc.

A.B.

R.S.O. 1897, c. 136, Sched. C.

FORM 2.

CERTIFICATE RESPECTING REGISTRY BOOKS.

This register contains . pages, exclusive of index,
 and is to be used for the City (or Town, Village or Township) of
 , in the County (or District) of
 for the recording of deeds, duplicates, and other instruments under
 the provisions of *The Registry Act*, and is provided in pursuance of
 the said Act.

Dated this day of

, 19

R.S.O. 1897, c. 136, Sched. D.

FORM 3.

ABSTRACT INDEX.

Township of _____, Lot No. _____ in the _____ Concession.								
1	2	3	4	5	6	7	8	9
No. of Instrument.	Instrument.	Its Date.	Date of Registry.	Grantor.	Grantee.	Quantity of Land.	Consideration in conveyance or amount of mortgage money.	Remarks.

NOTE.—The names of all the grantors and grantees should appear in the abstract index.

R.S.O. 1897, c. 136, Sched. E.

FORM 4.

ALPHABETICAL INDEX.

No. of Instrument.	GRANTOR.	GRANTEE.	No. of Instrument.	GRANTEE.	GRANTOR.

R.S.O. 1897, c. 136, Sched. F.

FORM 5.

AFFIDAVIT OF EXECUTION.

County (or District) of _____ I, (name, residence and occupation),
To Wit: _____ { make oath and say:

1. That I was personally present and did see the annexed (or within) instrument (and a duplicate, *if any, according to the fact*) duly signed, sealed and executed by the parties thereto.

2. That the said instrument (and duplicate, *if any, according to the fact*) was (or were) executed by the said parties at the
of

3. That I know the said parties.

4. That I am a subscribing witness to the said instrument (and duplicate, *if any, according to the fact*).

Sworn, etc.

A.B.

R.S.O. 1897, c. 136, Sched. G.

FORM 6.

AFFIDAVIT OF EXECUTION WHERE THE INSTRUMENT IS A SECURITY UNDER
SECTION 36.

County (or District) of } I, (name, residence and occupation)
To Wit: } make oath and say:

1. That I was personally present and did see the annexed (or within) instrument (and a duplicate, *if any, according to the fact*), duly signed, sealed and executed by the parties thereto.

2. That the said instrument was read over in my presence and explained to the said , and that he appeared perfectly to understand the same, and was informed that it might be registered as an incumbrance on his land.

3. That the said instrument (and duplicate, *if any, according to the fact*), was (or were) executed by the said parties at the
of

4. That I know the said parties.

5. That I am a subscribing witness to the said instrument (and duplicate, *if any, according to the fact*).

Sworn, etc.

A.B.

R.S.O. 1897, c. 136, Sched. H.

FORM 7.

CERTIFICATE OF THE JUDGE OF THE COUNTY OR DISTRICT COURT IN LIEU
OF AFFIDAVIT OF EXECUTION.

I,
County (or District) of } Judge of the County (or District) Court of
To Wit: } the County (or District) of
certify that, from the proof adduced by
(name of the person producing the proof),
I am satisfied of the due execution of the within instrument (or of the instrument whereof the within is a copy, memorial or duplicate, *as the case may be*).

As witness my hand at the
day of 19 .

A.B.,
Judge.

R.S.O. 1897, c. 136, Sched. I.

FORM 8.

CERTIFICATE OF REGISTRATION.

I certify that the within instrument is duly
 entered and registered in the Registry Office for the Registry Division
 of in Book for the of
 at o'clock of the day of
 19 .

Number

Registrar,
 or Deputy Registrar.

R.S.O. 1897, c. 136, Sched. J.

FORM 9.

MINUTE OF REGISTRATION.

Entered and registered this day of
 19 at o'clock m.

Registrar (or Deputy Registrar).

R.S.O. 1897, c. 136, Sched. K.

FORM 10.

DISCHARGE OF MORTGAGE.

To the Registrar of the Registry Division of
 I, , of , do certify that has satisfied all
 money due on, or to grow due on (or has satisfied the sum of \$
 mentioned in), a certain mortgage made by of to
 which mortgage bears date the day of 19 , and
 was registered in the Registry Office for the Registry Division of
 on the day of 19 , at minutes past
 o'clock, noon, in Book for as No. (here mention
 the date and the date of registration of each assignment thereof,
 and the names of the parties, or mention that such mortgage has
 not been assigned, according to the fact), and that I am the per-
 son entitled by law to receive the money, and that such mortgage
 (or such sum of money as aforesaid, or such part of the land as
 is herein particularly described, that is to say:) is therefore
 discharged.

Witness my hand this day of 19 .
 A.B.

Witness }

R.S.O. 1897, c. 136, Sched. L.

FORM 11.

CERTIFICATE OF DISCHARGE OF MORTGAGE BY SHERIFF, ETC.

To the Registrar of the Registry Division of

I, A.B., of Sheriff of the County (or District) of
 [or Bailiff of the (number) Division Court of
 the County (or District) of]
 do certify that by virtue of an execution wherein C.D. is plaintiff

and *E.F.* defendant, issued out of the High Court of Justice (or as the case may be) and to me directed, I seized a certain mortgage made by one *J.H.* of (as described in the mortgage) bearing date the _____ day of _____, 19____, and registered at _____ of the clock in the _____ noon, of the _____ day of _____ in Book _____ for _____ as No. _____ to *E.F.*, of _____ (as described in the mortgage), the defendant in the said execution named, and such mortgage has not been assigned (or has been assigned to the defendant: here set out date and date of registration of assignment) and I do further certify that I have received from the said mortgagor (or from the executors, administrators, or assigns of the said mortgagor, as the case may be), the full amount of said mortgage (or \$ _____ part of the mortgage money), and that such mortgage is therefore discharged (or that such mortgage is as to \$ _____ part of the money thereby payable, discharged).

As witness my hand and seal of office (or the seal of the said Court) this _____ day of _____ 19____.

A.B.

Witness, }
C.D. }

R.S.O. 1897, c. 136, Sched. M.

FORM 12.

CERTIFICATE OF DISCHARGE OF INSTRUMENT CREATING A CHARGE.

To the Registrar of the Registry Division of

County (or District) of _____ I, (name, residence and occupation),
To Wit: _____ do hereby certify that _____ of the
of _____, in the County (or District) of _____
(occupation) _____, has satisfied all money due or
to grow due on (or has satisfied the sum of \$ _____ mentioned in)
a certain instrument made by _____ of _____ to _____,
which instrument bears date the _____ day of _____ 19____, and
was registered in the Registry Office for the Registry Division of _____
on the _____ day of _____ 19____, at
_____ minutes past _____ o'clock _____ noon, in
Book _____ for _____, as No. _____ (here mention the
date and the date of registration of each assignment thereof, and the
names of the parties, or mention that such instrument has not been
assigned, according to the fact), and that I am the person entitled
by law to receive the money, and that such instrument (or such
sum of money as aforesaid, or such part of the land as is herein
particularly described, that is to say: _____)
is therefore discharged.

Witness my hand this _____ day of _____ 19____.

A.B.

Witness }
C.D. }

R.S.O. 1897, c. 136, Sched. N.

FORM 13.

SURVEYOR'S CERTIFICATE OF PLAN.

I hereby certify that this plan accurately shews the manner in which the land included therein has been surveyed and subdivided

by me; and that the said plan is prepared in accordance with the provisions of *The Registry Act*.

Dated

19

A.B.

Ontario Land Surveyor.

R.S.O. 1897, c. 136, Sched. O.

FORM 14.

AFFIDAVIT WHERE INSTRUMENT DOES NOT CONFORM TO PLAN.

County (or District) of } I, (*name, residence and occupation*),
To Wit: } make oath and say:

1. To the best of my knowledge and belief, the land described in the within (or annexed) instrument is designated on Registered Plan No. as lots (*describe same so as to conform to plan*).

2. That a party to said instrument died on or about the day of 19, (or as the case may be).

(or 2. That it is impossible (or inconvenient) to obtain a new instrument or a re-execution of the said instrument containing a description conforming to the said plan for the following reasons (*here set out the facts*).

3. That I have a personal knowledge of the matters herein deposed to.

Sworn etc.

R.S.O. 1897, c. 136, Sched. P.

FORM 15.

AFFIDAVIT UNDER SECTION 33 (2).

County (or District) of I, (*name, residence and occupation*),
To Wit: make oath and say that.

1. I am a party (or as the case may be) to an instrument affecting land without local description, registered in the Registry Division of on the day of 19, at minutes past o'clock noon, in Book , as number .

2. The said instrument affects the land within the said Registry Division hereinafter described, that is to say (*here give a local description of the lands sufficient for the purposes of registering an instrument in the separate Registry Books under the Act*).

Sworn, etc.

A.B.

63 V. c. 19, s. 2.

SCHEDULE A.

LIST OF REGISTRY DIVISIONS.

Part 1.

The undermentioned TERRITORIAL DIVISIONS, as set forth in Chapter 3 of the Revised Statutes of Ontario, 1897 (except as otherwise mentioned), constitute separate registry divisions:—

The Counties of—

1. Brant.
2. Bruce.
3. Carleton, excepting the City of Ottawa.
4. Dufferin.
5. Dundas.
6. Elgin.
7. Essex.
8. Frontenac, excepting the City of Kingston.
9. Glengarry.
10. Grenville.
11. Haldimand.
12. Halton.
13. Hastings.
14. Huron.
15. Kent.
16. Lambton.
17. Leeds.
18. Lennox and Addington.
19. Lincoln.
20. Norfolk.
21. Ontario.
22. Oxford.
23. Peel.
24. Peterborough.
25. Prescott.
26. Prince Edward.
27. Renfrew.
28. Russell.
29. Simcoe.
30. Stormont.
31. Victoria.
32. Waterloo.
33. Welland.
34. Wentworth.

The Cities of—

35. Kingston.
36. London.
37. Ottawa.

The Provisional County of—

38. Haliburton; and

The Districts of—

39. Algoma.
40. Kenora.
41. Manitoulin.
42. Muskoka.
43. Nipissing.
44. Parry Sound.
45. Rainy River.
46. Sudbury.
47. Thunder Bay.

Part 2.

The undermentioned ELECTORAL DISTRICTS, as set forth in Chapter 6 of the Revised Statutes of Ontario, 1897 (except as otherwise mentioned), constitute separate registry divisions:—

48. Durham, East Riding.
 49. Durham, West Riding.
 50. Lanark, North Riding, and town of Carleton Place.
 51. Lanark, South Riding.
 52. Middlesex, West Riding.
 53. Northumberland, East Riding.
 54. Northumberland, West Riding, and the township of West Monaghan.
 55. Perth, North Riding, and the township of Logan.
 56. Perth, South Riding, excepting the township of Logan.
 57. York, North Riding.
58. The East and North Ridings of Middlesex constitute one registry division; and
 59. The East and West Ridings of York constitute one registry division.

Part 3.

The undermentioned registry divisions are constituted as hereinafter set forth:—

60. East Toronto consists of all that part of the City of Toronto lying east of Spadina Avenue and Spadina Road, continued south and north to the boundaries of the city, the land on Spadina Avenue now occupied by Knox College, and the Islands constituting the southerly part of the said city.
61. West Toronto consists of all that part of the said city lying west of Spadina Avenue and Spadina Road, continued as aforesaid to the boundaries of the city.
62. Grey, North Riding, consists of the townships of Collingwood, Derby, Euphrasia, Holland, Keppel, St. Vincent, Sarawak, Sullivan and Sydenham, and the towns of Meaford, Owen Sound and Thornbury.
63. Grey, South Riding, consists of the townships of Artemesia, Bentinck, Egremont, Glenelg, Normanby, Osprey and Proton, the town of Durham, and the incorporated villages of Dundalk and Markdale.
64. Wellington, North Riding, consists of the townships of Arthur, Minto, Maryborough, Peel and West Luther; the towns of Harriston, Mount Forest and Palmerston, and the incorporated villages of Arthur, Clifford and Drayton.
65. Wellington, South and Centre Ridings, consists of the townships of Guelph, Eramosa, Erin, Nichol, Pilkington, West Garafraxa and Puslinch; the city of Guelph, and the incorporated villages of Elora, Fergus and Erin.

NOTE.—The townships hereinbefore mentioned include all towns and incorporated villages situated within the limits thereof respectively.

R.S.O. 1897, c. 136, Sched. P; 2 Edw. VII. c. 12, s. 19; 2 Edw. VII. c. 16, s. 1.

No. 171.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting the Registration of
Instruments relating to Lands.

First Reading 24th day of February, 1910.

*(Reprinted as amended by Committee of
Whole House.)*

Mr. Foy

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 4 of section 58 of *The Consolidated Municipal Act 1903*, is amended by inserting after the word “and” in the 16th line thereof, the words “when such by-law provides for a sinking fund,” and by adding at the end of the said subsection the following subsection:—

3 Edw. VII.,
c. 19, s. 58,
subs. 4
amended.

(4a) “When any such by-law provides for the issue of debentures re-payable in equal annual instalments of principal and interest, the Corporation of such Municipality or adjoining Municipality as the case may be, shall in each and every year during the currency of the debenture issue under such by-law, levy, collect and pay over as, and so soon as the same are collected the special rates imposed by such by-law, to the Treasurer of the Municipality to which such lands formerly belonged.”

Where by-law
provides equal
annual instal-
ments of
principal and
interest.

2. Subsection (b) of section 388 of the said Act as enacted by section 12 of *The Municipal Amendment Act, 1909*, is amended by striking out the word “Municipality” in the first line and inserting in lieu thereof, the words, “city, town or village,” and by inserting after the word “city” in the eighth and nineteenth lines the words “town or village.”

3 Edw. VII.,
c. 19, s.
388(b)
amended.

3. Section 685 of *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following as subsection 2 thereof.

c. 19, s. 685
amended.

Power to
borrow
amounts
ordered to be
paid by
Dominion
Railway
Board or
Ontario Rail-
way and
Municipal
Board.

- (2) "Notwithstanding anything contained in this Act, the Council of a township may also pass a by-law or by-laws for borrowing money by the issue of debentures payable in equal annual instalments of principal and interest as provided by section 386 of this Act, for a period not exceeding twenty years, secured by a special rate on the rateable property of the Municipality or any part thereof, for the purpose of paying and liquidating any sum or sums ordered by the Board of Railway Commissioners for Canada to be paid by the Municipality as its share of the cost of grade separation at the intersection of any railway line with a highway of the Municipality or for any work ordered to be constructed by said Board or by the Ontario Railway and Municipal Board, and it shall not be necessary to obtain the assent of the rate-payers to any such by-law."

No. 172.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Municipal Act.

First Reading 21st day of February, 1910.

Mr. LENNOX.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting The Cobalt Lake Mining Company, Limited.

WHEREAS the Cobalt Lake Mining Company has Preamble.
petitioned for an Act to enable the Company to reduce its authorized capital from \$5,000,000 to \$3,500,000 and for that purpose to purchase shares of the Company for cancellation; and whereas it is expedient to grant the prayer of the said Petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Cobalt Lake Mining Company is authorized and Reduction of capital stock.
empowered to reduce its authorized capital from \$5,000,000 divided into 5,000,000 shares of the par value of \$1.00 to \$3,500,000 divided into 3,500,000 shares of the par value of \$1.00 each.

2. The Company is further authorized and empowered for Purchase of stock by company.
the purposes of such reduction, but not otherwise, to purchase any shares of the capital stock of the said Company from the holders thereof who may be willing to sell the same at such prices and upon such terms as may be agreed upon; provided that no such purchase shall be made until the directors have been expressly authorized by a By-law passed by them for the purpose, and confirmed by a vote of the majority of those shareholders present in person or by proxy at a general meeting of the Company.

No. 173

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting The Cobalt Lake
Mining Company, Limited.

(*Private Bill.*)

Mr. LENNOX.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

BILL

An Act respecting The Cobalt Lake Mining Company, Limited.

WHEREAS the Cobalt Lake Mining Company has Preamble.
petitioned for an Act to enable the Company to
reduce its authorized capital from \$5,000,000 to \$3,500,000
and for that purpose to purchase shares of the Company for
cancellation; and whereas it is expedient to grant the prayer
of the said Petition;

Therefore His Majesty, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. The Cobalt Lake Mining Company is authorized and Reduction of capital stock.
empowered to reduce its authorized capital from \$5,000,000
divided into 5,000,000 shares of the par value of \$1.00 to
\$3,500,000 divided into 3,500,000 shares of the par value
of \$1.00 each.

2. The Company is further authorized and empowered for Purchase of stock by company.
the purposes of such reduction, but not otherwise, to purchase
on the floor of any recognized stock exchange any
shares of the capital stock of the said Company which
may be offered for sale; provided that no such purchase
shall be made until the directors have been expressly
authorized by a By-law passed by them for the purpose, and
confirmed by a vote of *two-thirds* of those shareholders
present in person or by proxy at a general meeting of the
Company.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting The Cobalt Lake
Mining Company, Limited.

First Reading 25th day of Feb., 1910.

*(Reprinted as amended by the Private
Bills Committee.)*

MR. LENNOX.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to revise and amend the Chartered Accountants Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. "The Institute of Chartered Accountants of Ontario," ^{General powers.} incorporated by an Act passed in the forty-sixth year of the reign of Her late Majesty Queen Victoria, and Chaptered 62, is hereby continued as a body politic and corporate, with perpetual succession and a common seal, and shall, subject to the provisions of this section, be capable in law, by its corporate name, to take, purchase, hold, sell, and dispose of, all and any goods, chattels, lands, tenements and hereditaments and any real or personal property whatsoever, and any interest therein, which may from time to time be necessary or convenient for the purposes of the Institute; but the Institute shall not engage in, trade, or so deal in lands, or any interest therein, but may receive, manage and invest voluntary contributions and donations from members or others as a benevolent fund for the benefit of needy or non-prosperous members or their families, including families of deceased members; provided always that the said Institute shall only have power to acquire and hold such real estate as shall not at any one time exceed an annual value of three thousand dollars, and shall have and hold such real estate only so far as the same shall be necessary for the purposes of the said Institute within Ontario.

2. The objects of the Institute shall be to promote and ^{Objects.} increase, by all lawful ways and means, the knowledge, skill and proficiency of its members, in all things relating to the business or profession of an accountant, and to that end to establish classes, lectures and examinations, and prescribe such tests of competency, fitness and moral character as may be thought expedient to qualify for admission to membership.

Annual
meeting.

3. An annual meeting shall be held for the election of the Council of the Institute, and for such other business as may be brought before such meeting, at such time and place and under such regulations and notices, as by the by-laws of the Institute shall be determined; and in default of such election being held at the proper time the existing Council shall continue to act until their successors shall be duly appointed.

Council.

4.—(1) The Council of the Institute shall consist of fifteen members, of whom not less than two-thirds shall be public accountants, residing and practising within the Province.

Nominations
for council.

(2) Nominations of candidates for election to the Council must be in writing, signed by two members of the Institute, and must be lodged with the Secretary at least fourteen days before the date of the annual meeting.

Election of
council.

(3) A voting paper containing the names, alphabetically arranged, of the persons nominated for election to the Council shall be sent by mail to each member in good standing at least ten days before the date of the annual meeting, and the Council shall be elected by means of such voting papers, whether the members voting be present at or absent from the annual meeting.

Vacancies.

(4) All vacancies which may occur in the Council, by death or otherwise, in the interval between two annual meetings, may be filled by the Council.

Officers.

5. The Council shall elect from among its number a President, two Vice-Presidents, a Secretary and a Treasurer (the same person being eligible for both the last mentioned offices), and shall appoint a Registrar and such other officers as may be provided for by the by-laws.

Fees.

6. The Council may fix an entrance and annual fee or subscription to be paid by all members, and may vary the amount from time to time, and no member shall be personally liable for any debt of the Institute beyond the amount of his unpaid fees or subscriptions as aforesaid.

By-laws.

7.—(1) The council may make by-laws for carrying out its objects, and may alter and vary the same from time to time, but no such by-laws or any amendments thereto shall have force or take effect until they shall have been approved at the annual meeting of the Institute, or at a special general meeting called to consider the same.

(2) Any such by-law shall be liable to be cancelled and annulled by an order of the Lieutenant-Governor in Council.

8. The Council shall have authority from time to time ^{Examinations.} to prescribe a curriculum of studies to be pursued by the students, to determine the fitness and moral character of persons applying to be examined, to prescribe the subjects upon which candidates for certificates of competency shall be examined, to fix standards of skill and competency, to establish a scale of fees to be paid by persons applying for examination, to appoint examiners, define their duties and fix their remuneration, and to make such rules and regulations (not contrary to the provisions of this Act or the by-laws of the Institute) in respect to examinations as may be expedient. The Council shall hold examinations at least once in each year.

9. The Council shall by by-law prescribe the conditions ^{Equivalent examinations.} upon which persons who have passed the examinations of other corporate bodies having the same or similar objects, may be admitted as members of the Institute, and these conditions shall be reasonable and subject to amendment by the Lieutenant-Governor in Council.

10. The Institute may establish lectures and classes of ^{Lectures.} students in accounts, and may, subject to the approval of the Lieutenant-Governor in Council, make arrangements with any University or College in Ontario for the attendance of students in accounts at such lectures or classes in any such University or College as may come within the course of subjects prescribed by the rules, by-laws and regulations of the Institute, and may, subject as aforesaid, agree with any such University or College for the use of any library or museum or property belonging to or under the control of such University or College, and may affiliate with any such University or College, and may enter into all arrangements necessary for such end, upon such terms as may be agreed upon.

11. The membership of the Institute of ^{Membership.} Chartered Accountants of Ontario shall consist of two classes, namely, Fellows and Associates. Every member of the Institute shall have the right during the continuance of his membership, to use the designation "Chartered Accountant," and may use after his name, in the case of a Fellow the initials "F.C.A.," signifying "Fellow of the Chartered Accountants," and in the case of an Associate the initials "A.C.A.," signifying "Associate of the Chartered Accountants."

12. Persons who shall have rendered conspicuous services ^{Honorary membership.} to the Institute, either in the advancement of its educa-

tional objects or its general welfare or by material contributions to the library or other funds of the Institute, may by the unanimous vote of the members present at any meeting of the members, be elected to honorary membership of the Institute. Honorary membership shall not confer upon any person elected thereto the right to use the designation "Chartered Accountant" or to be elected to the Council or to vote.

Penalties.

13. No person shall be entitled to take or use the designation of "Chartered Accountant" or the initials "F.C.A.," "A.C.A.," or "C.A.," either alone or in combination with any other words, or any name, title or description implying that he is a Chartered Accountant, or any name, title, initials or description implying that he is a certified accountant or an incorporated accountant, unless he is a member of the Institute in good standing and registered as such. Any person using a name, title, initials or description contrary to the provisions of this section shall be liable on summary conviction to a fine not exceeding \$25 for each offence.

Membership register.

14.—(1) The Council shall cause to be kept by the Secretary or Registrar, a book or register, in which shall be entered in alphabetical order the names of all members in good standing; and those members only whose names are inscribed in the book or register aforesaid shall be deemed entitled to the privilege of membership in the Institute; and such book or register shall at all times be subject to inspection by any person free of charge.

(2) Such register, or a copy of the same duly certified by the Secretary or Registrar, shall be *prima facie* evidence in all courts and before all persons that the persons therein specified are members of the Institute in good standing, and the absence of the name of any person from such book shall be *prima facie* evidence that such person is not a member of the Institute.

Expulsions.

15. The Institute may by by-law provide for the suspension or expulsion, on complaint and after due enquiry, of any member for misconduct or for violation of the rules or by-laws of the Institute.

Rights of certain persons not affected.

16. Nothing in this Act shall affect or interfere with the right of any person not a member of the Institute to practise as an accountant in the Province of Ontario, nor with the right of any person, not residing or having an office within this Province, to use any designation as accountant.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to revise and amend the Chartered
Accountants Act.

First Reading, 22nd day of Feb., 1910.

Mr. JOHNSON.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 1 of section 687 of *The Consolidated Municipal Act, 1903*, is amended by adding at the end thereof “whether owned by the Municipality or by any other person.”

s Edw. VI.,
c. 19, s. 687,
subs. 1
amended.
Construction
of water-
works mains
as local im-
provements.

No. 175

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend the Municipal Act.

First Reading, 22nd February, 1910.

Mr. FRIPP.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 176.

1910.

BILL

An Act to amend The Temiskaming and Northern Ontario Railway Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In lieu of the allowance of \$3,500 per annum provided for the Chairman of the Temiskaming and Northern Ontario Railway Commission by section 3 of *The Temiskaming and Northern Ontario Railway Act* the Chairman shall receive an honorarium at the rate of \$5,000 per annum. 7 Edw. VII., c. 18, s. 3; amended.

2. This Act shall take effect as from the first day of May, 1909. Commence-
ment of Act.

No. 176

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Temiskaming and
Northern Ontario Railway Act.

First Reading 22nd day of February, 1910

Mr. REAUME.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to revise and consolidate the Municipal Drainage Laws.

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Municipal Drainage Act.*" R. S. O. 1897, c. 226, s. 1.

INTERPRETATION.

Interpretation.

2. In this Act,

"Construction."

(a) "Construction" shall mean the original opening, making, excavating or completing of drainage work;

"County."

(b) "County" shall include a provisional judicial district;

"County Court."

(c) "County Court" shall include district court.

"County Judge."

(d) "Judge" shall mean the senior, junior, or acting Judge of the County or District Court of the county or district in which the municipality assessing lands or roads for a drainage work is situate, but shall not include a Deputy Judge;

"Court of Revision."

(e) "Court of Revision" shall mean a court of revision constituted under the provisions of this Act, for the trial of complaints respecting assessments for drainage work;

"Initiating Municipality."

(f) "Initiating Municipality" shall mean the municipality undertaking the construction of any drainage work to which this Act applies;

"Maintenance."

(g) "Maintenance" shall mean the preservation and keeping in repair of a drainage work;

"Municipality."

(h) "Municipality" shall not include a county municipality;

"Owner,"
"actual owner."

(i) "Owner" or "actual owner" shall include the executor or administrator of an owner's estate, the guardian of an infant owner, any person entitled to sell and convey the land, an agent of an owner under a general power of attorney, or under a power of attorney empowering him to deal with lands, and a municipal corporation as regards highways under their jurisdiction;

"Referee,"
54 V. c. 51.

(j) "Referee" shall mean the Referee for the purpose of the drainage laws of this Province as hereinafter provided;

"Reference."

(k) "Reference" shall mean a reference or transfer to the said Referee under the provisions of this Act;

(l) "Relief" shall mean relieving from liability for causing water to flow upon and injure lands or roads; "Relief."

(m) "Sufficient outlet" shall mean the safe discharge of water at a point where it will do no injury to lands or roads. "Sufficient outlet."
R. S. O. 1897, c. 226, s. 2; 6 Edw. VII., c. 37, s. 5.

CONSTRUCTION OF DRAINAGE WORK.

3.—(1)—Upon the petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners) as shown by the last revised assessment roll to be the owners of the lands to be benefited in any area as described in such petition within any township, incorporated village, town, or city, to the municipal council thereof, for the drainage of the area as described in the petition by means of drainage work, that is to say, the construction of a drain or drains, the deepening, straightening, widening, clearing of obstructions, or otherwise improving of any stream, creek or watercourse, the lowering of the waters of any lake or pond, or by any or all of said means as may be set forth in the petition, the council may procure an engineer or Ontario land surveyor to make an examination of the area to be drained, the stream, creek or watercourse to be deepened, straightened, widened, cleared of obstructions or otherwise improved, or the lake or pond, the waters of which are to be lowered, according to the prayer of the petition, and to prepare a report, plans, specifications and estimates of the drainage work, and to make an assessment of the lands and roads within said area to be benefited and of any other lands and roads liable to be assessed as hereinafter provided, stating as nearly as may be, in his opinion, the proportion of the cost of the work to be paid by every road and lot or portion of lot for benefit, and for outlet liability and relief from injuring liability as hereinafter defined. R. S. O. 1897, c. 226, s. 3 (1); 3 Edw. VII., c. 22, s. 1; 6 Edw. VII., c. 37, s. 1; *Ib.* s. 8 (2).

What work may be undertaken on petition.

Council to order examination and report by engineer.

(2) The provisions of this Act shall apply and extend to every case where the drainage work can only be effectually executed by embanking, pumping or other mechanical operations, but in every such case the municipal council shall not proceed except upon the petition of at least two-thirds of the owners of lands within the area described according to the preceding subsection. R. S. O. 1897, c. 226, s. 3 (2);

When work requires pumping, embanking, etc.

(3) If from the lands or roads of any municipality, company or individual, water is by any means caused to flow upon and injure the lands or roads of any other municipality, company or individual, the lands and roads from which the

When lands may be assessed by engineer for "injuring liability."

water is so caused to flow may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work required for relieving the injured lands or roads from such water, and to the extent of the cost of the work necessary for their relief as may be determined by the engineer or surveyor, Court of Revision, County Judge, or Referee; and such assessment may be termed "injuring liability";

- (a) The owners of the lands or roads thus made liable for assessment shall neither count for nor against the petition required by subsection 1 of this section unless within the area therein described.

When lands may be assessed for "outlet liability."

(4) The lands and roads of any municipality, company or individual using any drainage work as an outlet, or for which when the work is constructed, an improved outlet is thereby provided, either directly or through the medium of any other drainage work or of a swale, ravine, creek or watercourse, may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work so used as an outlet or an improved outlet, and to the extent of the cost of the work necessary for any such outlet, as may be determined by the engineer or surveyor, Court of Revision, County Judge or Referee; and such assessment may be termed "outlet liability."

- (a) The owners of the lands and roads thus made liable to assessment shall neither count for nor against the petition required by subsection 1 of this section, unless within the area therein described. R. S. O. 1897, c. 226, s. 3 (3), (4); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Basis of assessment for outlet and injuring liability.

(5) The assessment for injuring liability and outlet liability provided for in the two next preceding subsections shall be based upon the volume, and shall also have regard to the speed, of the water artificially caused to flow upon the injured lands or into the drainage work from the lands and roads liable for such assessments. R. S. O. 1897, c. 226, s. 3 (5).

PETITION FOR CONSTRUCTION.

Form of petition.

4. The petition shall be in the form or to the effect of Schedule A. to this Act. R. S. O. 1897, c. 226, s. 4.

DUTIES OF ENGINEER OR SURVEYOR.

5. Any engineer or surveyor employed or appointed by any municipal council to perform any work under the provisions of this Act, including the assessment of real property for the purpose of drainage work, shall before entering upon his duty, take and subscribe the following oath, and shall leave the same with, or send it by registered letter to the clerk of the municipality:

In the matter of the proposed drainage work (or as the case may be) in the township of (name).

I (name in full) of the town of _____ in the county of _____ Engineer (or Surveyor) make oath and say, (or do solemnly declare and affirm):

That I will, to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against any owner or owners, or other person or persons whomsoever, perform the duty assigned to me in connection with the above work and will make a true report thereon.

Sworn before me at the _____ of _____
in the county of _____ this _____
day of _____ A.D. 19 _____

A Commissioner, etc. (or Township Clerk, or J. P.)

R.S.O. 1897, c. 226, s. 5; 3 Edw. VII., 3. 22, s. 2; 6 Edw. VII., c. 37 s. 8 (2).

6.—(1) The engineer or surveyor, in assessing the lands to be benefited or otherwise liable for assessment under this Act, need not confine his assessment to the part of the lot actually affected, but may place such assessment on the quarter, half or whole lot containing the part affected as the case may be, if the owner of such part is also the owner of such lot or other said sub-division. R.S.O., 1897, c. 226, s. 6; 3 Edw. VII., c. 22, s. 2.

Assessment of whole lot or sub-division

(2) Where part of a whole lot or of a sub-division or portion of a lot assessed by the engineer has been sold since the final revision of the assessment, the owner of the part so sold or the owner of the remaining portion of the lot or sub-division or portion of a lot so assessed, may give notice to the clerk of the municipality that he requires the said assessment to be apportioned between the owners of the property so assessed and sub-divided, and the township engineer shall thereupon make such apportionment in writing and the same shall be filed with the clerk and shall be by him attached to the original assessment, and shall be binding on the lands assessed in the manner apportioned by the said engineer, and the rate shall thereafter be levied and collected accordingly. The costs of the engineer shall be borne and paid by the parties in the manner which may be fixed or apportioned by such engineer. 62 V. (2), c. 28, s 4.

Apportionment of assessment for drainage work on sub-division of land assessed

7. The assessment upon any lands or roads for any drain-

Assessment may be shown in money.

age work may be shown by the engineer or surveyor placing sums of money opposite the lands or roads, and it shall not be necessary to insert the fractional part of the whole cost to be borne by the lands or roads. R.S.O. 1897, c. 226, s. 7; 3 Edw. VII., c. 22, s. 2.

Plans, specifications and estimates.

8. The engineer or surveyor, when required by the council, shall make plans, specifications and detailed estimates of the drainage work to be constructed and charge the same to the work as part of its cost. R.S.O. 1897, c. 226, s. 8; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Bridges and culverts on highways.

9.—(1) The engineer or surveyor shall in his report and estimates provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage work rendered necessary by such work crossing any public highway or the travelled portion thereof; and he shall in his assessment apportion the cost of bridges and culverts between the drainage work and the municipality or municipalities having jurisdiction over such public highway as to him may seem just. R.S.O. 1897, c. 226, s. 9 (1); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Bridges between highways and private lands

(2) The engineer or surveyor shall also in his report and estimates provide for the construction or enlargement of bridges required to afford access from the lands of owners to the travelled portion of any public highway, and he shall include the cost of the construction or enlargement of such bridges in his assessment for the construction of the drainage work, and they shall, for the purposes of construction and maintenance, be deemed part of the drainage work, and the maintenance thereof may include any enlargement from time to time rendered necessary by the drainage work. R.S.O. 1897, c. 226, s. 9 (1), (2); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2). 8 Edw. VII., c. 52, s. 2.

Maintenance of bridges.

Farm bridges.

(3) The engineer or surveyor shall in the same manner provide for the construction or enlargement of bridges rendered necessary by the drainage work upon the lands of any owner, and shall fix the value of the construction or enlargement thereof to be paid to the respective owners entitled thereto, but the land assessed for the drainage work shall not nor shall any municipal corporation be liable for keeping such bridges in repair. R.S.O. 1897, c. 226, s. 9 (3); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Allowing for private ditches, etc.

(4) The engineer or surveyor shall likewise in his report estimate and allow in money to any person, company or corporation the value to the drainage work of any private ditch or drain, or of any ditch constructed under any Act respect-

ing ditches or watercourses which may be incorporated in whole or in part into such drainage work or used therewith. R.S.O. 1897, c. 226, s. 9 (4); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

(5) The engineer or surveyor shall further in his report determine in what manner the material taken from any drainage work, either in the construction or repair thereof, shall be disposed of, and the amount to be paid to the respective persons entitled for damages to lands and crops (if any) occasioned thereby, and shall include such sums in his estimates of the cost of the drainage work or the repairs. Disposal of material taken from drainage work. R.S.O. 1897, c. 226, s. 9 (3)-(5); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

(6) Where, in the opinion of the engineer or surveyor, the cost of continuing the drainage work to a point where the discharge of water will do no injury to lands and roads, or the cost of constructing the drainage work with sufficient capacity to carry off the water, will exceed the amount of injury likely to be caused to low lying lands along the course of, or below the termination of the work, instead of continuing the work to such a point, or constructing it of such capacity, he may include in his estimate of the cost of the drainage work a sufficient sum to compensate the owners of such low lying lands for any injuries they may sustain from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low lying lands in respect of such injuries. Assessment of compensation for damage to low lands instead of constructing drain to an outlet. 2 Edw. VII., c. 32, s. 1; 3 Edw. VII., c. 22, s. 2; 4 Edw. VII., c. 10, s. 50; 6 Edw. VII., c. 37, s. 8 (2). (Amended.)

(7) Any owner of lands affected by the drainage work, if dissatisfied with the report of the engineer in respect of any of the provisions of this section, may appeal therefrom to the Referee, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within 10 days after the adoption of the engineer's report by the council, and the Referee may hear and determine the appeal in a summary manner either on his own view of the premises and after hearing the parties and if he sees fit their witnesses or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the Referee. Appeal to referee. The Referee, on an appeal under this subsection, may make such order as to him seems just, and his decision shall be final. R.S.O. 1897, c. 226, s. 9 (6); 3 Edw. VII., c. 32, s. 2; 9 Edw. VII., c. 78, s. 4.

(8) Forthwith upon the filing of the engineer's report with the clerk of the municipality, the clerk shall, by letter Notice to persons assessed.

Notice to owners for whom compensation assessed.

or postal card, notify the parties assessed of such assessment and the amount thereof. In case more than one municipality is interested in the proposed work, the clerk of such other municipality or municipalities shall forthwith, upon the filing of a copy of the engineer's report in their office, notify the parties assessed of such assessment and the amount thereof, and he shall also in like manner notify each of the owners of lands in respect of which the report provides for compensation of the date of filing the report, the amount awarded to such owner for compensation and the date of the council meeting at which the report will be read and considered. 62 V. (2), c. 28, s. 5; 2 Edw. VII., c. 32, s. 3.

Time for filing report of engineer.

(9) The report of the engineer shall be filed within six months after the filing of the petition, or within such further time as the council may in their discretion from time to time appoint, and the council may adopt the report of the engineer if they see fit notwithstanding that such report is made after the six months herein fixed for making the same or after any extended period fixed by the council under this subsection. 62 V. (2), c. 28, s. 6 *part*; 7 Edw. VII., c. 42, s. 3.

If engineer neglects to do work council may appoint another.

(10) In case the engineer neglects to make his report within the time limited by the preceding subsection, or within the time fixed by the council under the said subsection, he shall forfeit all claim for compensation for the work done by him upon the drain, and the council may employ some other engineer to make the examination, report and assessment required by the preceding section. 62 V. (2), c. 28, s. 6 *part*.

By-law not to be invalid by reason of engineer's report not being filed within six months.

(11) A by-law passed by the council of any municipality for the construction of any drainage work under this Act, upon the report of the engineer, shall not be quashed or declared void or illegal by reason only that the report of the engineer has not been filed within six months after the filing of the petition provided for in this Act, or within the extended period provided for in subsection 9.

Spreading earth and removing timber on road allowances.

10. When a drainage work is to be constructed on or along a road allowance the engineer or surveyor shall, upon the application of the municipal council controlling such road allowance, place in his estimate of the cost of the work a sum sufficient to close-chop, or grub and clear not less than twelve feet of the middle of the road allowance (if required) and to spread thereon the earth to be taken from the work, and shall charge the cost thereof to the municipality, together with its proportion of the cost of the drainage work. R.S.O. 1897, c. 226, s. 10, 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

COVERING DRAINAGE WORK.

11. Where the engineer or surveyor reports in favour of covering the whole or any part of a drainage work constructed under this Act, he shall determine and state in his report the size and capacity thereof and also the material to be used in its construction, and all the provisions of this Act shall apply thereto in the same manner and to the same extent as to an uncovered or open drainage work, but in no case shall the improvement of a creek, stream or natural watercourse be made into a covered drainage work unless it provides capacity for all the surface water from lands and roads draining naturally towards and into it, as well as for all the waters from all the lands assessed for the drainage work. R.S.O. 1897, c. 226, s. 11; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Report on
covering
drains.

DISTINGUISHING ASSESSMENTS.

12. The engineer or surveyor shall, in his report, assess for benefit, outlet liability and injuring liability, and shall also in his assessment schedule insert the sum charged for each opposite the lands and roads liable therefor respectively, and in separate columns. R.S.O. 1897, c. 226, s. 12; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Engineer to
distinguish
assessments.

13. In fixing the sum to be assessed upon any lands or roads the engineer or surveyor may take into consideration any prior assessment on the same lands or roads for drainage work and repairs and make such allowance or deduction therefor as may seem just, and he shall, in his report, state the allowance made by him in respect thereof. R.S.O. 1897, c. 226, s. 13; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Prior assess-
ments to be
taken into
considera-
tion.

14. The engineer or surveyor aforesaid shall determine and report to the council of the municipality by which he was employed, whether the drainage work shall be constructed and maintained solely at the expense of such municipality and the lands assessed therein, or at the expense of all the municipalities interested, and the lands therein assessed, and in what proportions. R.S.O. 1897, c. 226, s. 14; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Engineer to
report as to
whether or
not other
municipali-
ties are in-
terested and
how.

FILING REPORT.

15. As soon as the engineer or surveyor has completed his report, plans, specifications, assessments and estimates, he shall file the same with the clerk of the municipality by which he was employed. R.S.O. 1897, c. 226, s. 15; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Engineer to
file report.

Engineer or Surveyor to give detailed accounts of service, under oath.

16.—(1) Any engineer or surveyor employed or appointed to perform any work under the provisions of this Act shall, if required so to do by the council by which he was engaged, send in his accounts to the said municipalities for his services, under oath, giving detailed information as to the number of days occupied in superintending the drainage work, the number of days engaged in laying out the work, and the number of days engaged in the office making plans and preparing his report, also the number of days on which he was engaged in making assessments and inspecting the work, showing the number of hours occupied in each day; and the said account shall also set out whether said work was performed on the works or in the office, and whether the time so occupied was the time of the engineer himself, or that of a clerk or assistant. 3 Edw. VII., c. 22, s. 4 (1); 6 Edw. VII., c. 37, s. 2.

(2) The said account upon the written request of the municipal council or of any person assessed, to be filed with the clerk of the municipality, shall be audited by the Judge free of charge.

(3) The clerk shall deliver the account to the Judge, who shall appoint a time and place at which he will proceed with the audit.

(4) The clerk shall give at least two days' notice of such audit to the engineer or surveyor and the head of the municipality, as well as to any person requiring the audit.

(5) At the time and place named in such appointment the Judge shall audit the account, and may disallow any charges which he may deem unreasonable, and shall certify thereon the amount to which, in his opinion, the engineer or surveyor is entitled, and the amount disallowed shall not be recoverable by the engineer or surveyor. 3 Edw. VII., c. 22, s. 4, (2)-(5).

NOTICE TO PERSONS ASSESSED.

Clerk to notify parties assessed.

17. The clerk of the municipality shall notify all parties assessed within the area described in the petition, by mailing to the owner of every parcel of land assessed therein for the drainage work, a circular or postal card upon which shall be stated the date of filing the report, the name or other general designation of the drainage work, its estimated cost, the owner's lands and their assessment, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be read and considered, which shall be not less than ten days after the mail-

ing of the last of such circulars or postal cards, and the determination of the council as to the sufficiency of notice or otherwise shall be final and conclusive. R.S.O. 1897, c. 226, s. 16.

CONSIDERATION OF REPORT.

18. The municipal council shall at the meeting mentioned in such notice, immediately after dealing with the minutes of its previous meeting, cause the report to be read by the clerk to all the ratepayers in attendance, and shall give an opportunity to any person who has signed the petition to withdraw from it by putting his withdrawal in writing, signing the same and filing it with the clerk, and shall also give those present who have not signed the petition an opportunity so to do; and should any of the roads of the municipality be assessed, the council may by resolution authorize the head or acting head of the municipality to sign the petition for the municipality, and such signature shall count as that of one person benefited in favour of the petition. R.S.O. 1897, c. 226, s. 17.

Proceedings at meeting for consideration of report.

19. The council at any time before the final passing of the by-law, if it appears that there are or may be errors in the report or assessment of the engineer or that for any other reason the report or assessment should be re-considered, may refer the report back to him for re-consideration, and the engineer may thereupon re-consider his report and assessment and shall report to the council, and the report shall have the same effect and shall be dealt with in the same manner and the proceedings thereon shall be the same as upon the original report or assessment, and it shall not be necessary that the engineer shall make any further oath or declaration. 9 Edw. VII., c. 78, s. 5.

Referring report back to engineer for re-consideration

EFFECT OF WITHDRAWAL FROM PETITION.

20. Should the petition at the close of the said meeting of the council contain the names of the majority of the persons shown as aforesaid to be owners benefited within the area described in such petition, the council may proceed to adopt the report and pass a by-law authorizing the work, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw; but if after striking out the names of the persons withdrawing, the names remaining, including the names, if any, added as provided by section 18, do not represent a sufficient number of owners within the area described to comply with the provisions of section 3, then the persons who have withdrawn from the petition shall on their respective assessments in the

Withdrawing from petition.

report, with one hundred per centum added thereto, together with the other original petitioners on their respective assessments in the report, be, *pro rata*, chargeable with and liable to the municipality for the expenses incurred by said municipality in connection with such petition and report, and the sum with which each of such owners is chargeable shall be entered upon the collector's roll for such municipality against the lands of the person liable, and shall be collected in the same manner as taxes placed on the roll for collection. R.S.O. 1897, c. 226, s. 18; 6 Edw. VII., c. 37, s. 3.

Certain by-laws heretofore passed confirmed.

21. A by-law heretofore or hereafter passed shall not be deemed invalid or illegal by reason only that the petition therefor was not sufficiently signed if such petition was duly signed by a majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners) shown by the last revised assessment roll to be the owners of the lands to be benefited in the area described in such petition. 6 Edw. VII., c. 37, s. 10.

BY-LAWS.

What by-laws may be passed by council.

22. Should the council of the municipality in which the lands and roads described in the petition lie, be of the opinion that the drainage work proposed in the petition, or a portion thereof, would be desirable, the council may pass a by-law or by-laws:—

Doing Work and Borrowing Money.

Providing for work.

1. For providing for the construction of the proposed drainage work or a portion thereof, as the case may be.

Borrowing funds.

2. For borrowing on the credit of the municipality the funds necessary for the work, or the portion to be contributed by the initiating municipality when the same is to be constructed at the expense of two or more municipalities, and for issuing the debentures of the municipality to the requisite amount, including the costs of appeal, if any, in sums of not less than \$50 each, and payable within twenty years from date (except in case of pumping and embanking drainage work, the debentures for which shall be payable within thirty years from their date), with interest at a rate of not less than 4 per centum per annum.

Assessing Lands and Roads.

Assessing lands and roads.

3. For assessing and levying, in the same manner as taxes are levied, upon the lands and roads (including roads held by joint stock companies, railway companies, private individuals,

counties or county councils) to be benefited by the work and otherwise liable for assessment under this Act in the municipality passing the by-law, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing, levying and collecting the same as other taxes are assessed, levied and collected, in proportion as nearly as may be, to their respective liability to contribute.

4. For regulating the times and manner in which the assessments shall be paid. Fixing time for paying assessment.

Determining Assessment Liability.

5. For determining what lands and roads will be benefited by or otherwise rendered liable for assessment for the drainage work, and the proportion in which the assessment should be made, subject in every case of complaint by the owner or any person interested in any lands or roads to appeal as hereinafter provided. R.S.O. 1897, c. 226, s. 19. Determining property to be benefited.

FORM OF BY-LAW.

23. The by-law shall, varying with the circumstances, be in the form or to the effect of the form given in Schedule B. to this Act. R.S.O. 1897, c. 226, s. 20. Form of by-law.

PUBLICATION OF BY-LAW.

24.—(1) Before the final passing of the by-law, it shall be published once in every week for four consecutive weeks in a newspaper published in the municipality or in the county town, or in an adjoining or neighboring municipality, and designated by resolution of the council, with a notice of the time and place of holding the Court of Revision, and also a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than ten days after the final passing thereof, serve a notice in writing upon the reeve or other head officer and the clerk of the municipality, of his intention to make application for that purpose to the Referee during the six weeks next after the final passing of the by-law. R.S.O. 1897, c. 226, s. 21 (1); 7 Edw. VII., c. 42, s. 1. Publication of by-law and notice of sitting of Court of Revision.

(2) The clerk shall furnish the publisher of the newspaper with the names and post office addresses of all persons within the municipality whose lands are assessed for the drainage work, and the publisher shall mail or cause to be mailed to each owner, to such post office address, the first two issues of the newspaper containing the by-law, and the publisher or person mailing such newspapers shall make a Newspapers to be sent to each person assessed.

statutory declaration of such mailing, and file the same with the clerk of the municipality publishing the by-law. R.S.O. 1897, c. 226, s. 21 (2).

Service in
lieu of publi-
cation.

25. The council may, at its option, instead of publishing in a newspaper, by resolution direct that a copy of the by-law, including said notice of the sitting of the Court of Revision and notice as to proceedings to quash, written or printed, or partly written and partly printed, be served upon each of the assessed owners, or their lessees or the occupant of their lands, or the agent of such owner, or be left on the lands, if occupied, with some grown up person; and if the lands are unoccupied and the owner or his agent does not reside within the municipality, the council may cause a copy of the by-law and notices to be sent by registered letter to the last known address of such owner; and a statutory declaration shall be made by the person effecting any service or mailing any such registered letter, showing the manner and date of effecting the service or mailing the registered letter; and the said declaration shall be filed by the person making the same, with the clerk of the municipality passing the by-law. R.S.O., 1897, c. 226, s. 22.

If by-law or
part thereof
not quashed
within time
limited.

26. In case no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the notice attached to the by-law, or where the notice is served, then if the application is not made or is unsuccessful in whole or in part, the by-law, or so much thereof as is not quashed, so far as the same ordains, prescribes or directs anything within the proper competence of the council to ordain, prescribe or direct, shall, notwithstanding any want of form or substance either in the by-law itself or in the time or manner of passing the same, be a valid by-law. R.S.O. 1897, c. 226, s. 23.

COURT OF REVISION.

Court of
Revision
where council
consists of
five or less
than five.

27. If the council of the municipality consists of not more than five members, such five members shall be a Court for the revision of the assessments for the drainage work. R.S.O., 1897, c. 226, s. 24.

Where coun-
cil contains
more than
five members

28. If the council consists of more than five members, it shall appoint five of its members to constitute the Court of Revision. R.S.O., 1897, c. 226, s. 25.

Oath of
member of
court.

29. Every member of the Court of Revision shall, before entering upon his duties, take and subscribe before the clerk of the municipality the following oath, or affirmation in cases where by-law affirmation is allowed:

I, _____, do solemnly swear (or affirm), that I will to the best of my judgment and ability, and without fear, favor or partiality, honestly decide the appeals to the Court of Revision from the assessments appearing in a by-law (*here set out title of by-law*), which may be brought before me for trial as a member of said Court.

R.S.O. 1897, c. 226, s. 26.

30.—(1) Three members of the Court of Revision shall constitute a quorum, and the majority of a quorum may decide all questions before the Court. Quorum.

(2) No member of the Court shall act as a member thereof while any appeal is being heard respecting any lands in which he is directly or indirectly interested, save and except roads and lands under the jurisdiction of the municipal council. R.S.O., 1897, c. 226, s. 27. Members not to sit on appeals when interested.

31.—(1) The clerk of the municipality shall be the clerk of the Court, and shall record the proceedings thereof and shall issue summonses to witnesses to attend any sittings of the Court. Clerk of Court.

(2) The summons to any witness issued by the clerk under this section may be in the following form:— Form of summons.

You are hereby required to attend and give evidence before the Court of Revision at _____ on the _____ day of _____ 19____, in the matter of the drainage work (*naming or describing work*) and of the following appeal.
Appellant (*name of*).

A. B.

Clerk of the Township of _____

(3) The fees payable to any witness on an appeal to the Court of Revision shall be according to the scale of witness fees in the Division Court. R.S.O. 1897, c. 226, s. 28. Witness fees.

32. At the time appointed, the Court shall meet and try all complaints in regard to owners wrongly assessed or omitted from assessment or assessed at too high or too low an amount, and the Court may adjourn from time to time as required. R.S.O. 1897, c. 226, s. 29. Meeting and adjournments.

33. The evidence of witnesses shall be taken on oath and any member of the Court may administer an oath to any party or witness. R.S.O. 1897, c. 226, s. 30. Administering oaths and summoning witnesses.

34. If any person summoned to attend the Court of Revision as a witness fails, without good and sufficient reason, to attend (having been tendered the proper witness fees) he shall incur a penalty of \$20 to be recovered with costs, by and to the use of any person suing for the same, either by suit in the proper Division Court, or in any way in which

penalties incurred under any by-law of the municipality may be recovered. R.S.O. 1897, c. 226, s. 31.

Procedure for Trial of Complaints.

Who may give
notice of
appeal.

35. Any owner of land, or, where roads in the municipality are assessed, any ratepayer, complaining of overcharge in the assessment of his own land, or of any roads of the municipality, or of the undercharge of any other lands, or of any road in the municipality, or that lands or roads which should have been assessed, have been omitted from the assessment, may personally, or by his agent, give notice in writing to the clerk of the municipality, that he considers himself aggrieved for any or all the causes aforesaid. R.S.O. 1897, c. 226, s. 32.

Time for holding Court of
Revision.

36. The trial of complaints shall be had in the first instance by and before the Court of Revision of the municipality in which the lands and roads assessed are situate, and the first sitting of such Court shall be held pursuant to notice on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, or from the date of completing the services or mailing of a printed copy of the by-law, as the case may be; notice of the first sitting of the Court shall be published or served with the by-law, but the Court may adjourn from time to time as occasion may require; and all notices of appeal shall be served on the clerk of the municipality at least ten days prior to the first sitting of the Court; but the Court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as may be just. R.S.O. 1897, c. 226, s. 33.

Notice.

Form of notice of complaint.

37. If any complaint is made on the ground that any lands or roads have been assessed too low or wrongly omitted from assessment by the engineer or surveyor, the clerk shall give notice of the complaint and the time of the trial to the owner or person interested in such lands, or in the case of roads to the reeve or other head of the municipality; which notice shall be in the form following or to the like effect:

Take notice that you are required to attend before the Court of Revision at _____ on the _____ day of _____ 19____, in the matter of the following appeal:—

"Appellant (*name of*).

Subject—That you are assessed too low (*or as the case may be*) for drainage work (*naming the drainage work*).

"To J. K.

(Signed.)

X. V.

Clerk."

R.S.O. 1897, c. 226, s. 34.

38. The notice in the preceding section mentioned shall be sent by letter addressed to such person and to his post office address or to his last known address, at least seven days before the first sitting of the Court. R.S.O. 1897, c. 226, s. 35. Serving notice.

39. The clerk of the Court shall enter the appeals on a list in the order in which they are received by him, and the Court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. R.S.O. 1897, c. 226, s. 36. Entry of appeals.

40. Such list may be in the following form:—

Form of list of appeals.

Appeals from the assessment of the engineer on drainage work, to be heard at the Court of Revision to be held at commencing at 10 o'clock in the forenoon on the day of 19.

Appellant.	Omitted or wrongly assessed.	Matter complained of.
A. B.....	Self.....	Overcharged for benefit.
C. D.....	Self.....	Overcharged for outlet.
E. F.....	Self.....	Overcharge for injuring.
G. H.....	J. R.....	Undercharge for benefit.
L. M.....	N. O.....	Undercharge for outlet.
P. Q.....	R. S.....	Undercharge injuring.
T. U.....	V. W.....	Wrongly omitted.
X. Y.....	Self.....	Wrongly assessed.
etc.	etc.	etc.

R.S.O. 1897, c. 226, s. 37.

41. In case any lands or roads have been assessed for the construction or repair of a drainage work, and the same property is afterwards assessed by the engineer or surveyor for the construction or repair of any other drainage work, the Court of Revision or Judge may take into consideration any prior assessment for drainage work on the same property and give such effect thereto as may be just. R.S.O. 1897, c. 226, s. 38. Court of Revision may take into consideration prior assessments.

42. When the ground of complaint is, that lands or roads are assessed too high, and the evidence adduced satisfies the Court of Revision or Judge that the assessments on such lands or roads should be reduced, but no evidence is given of other lands or roads assessed too low or omitted, the Court or Judge shall adjourn the hearing of such appeal, for a time sufficient to enable the clerk to notify by postal card or letter all persons affected of the date to which such hearing is adjourned; the clerk shall so notify all persons interested, and unless they appear and show cause against the reduction of the assessment appealed against or the increase of their own, the Court or Judge may dispose of the matter of appeal in such manner as may be just, and the sum by which the Adjournment of Court to notify persons affected by alteration of assessment.

assessment appealed against is reduced (if any) may be distributed pro rata over the assessments of its own class or otherwise so as to do justice to all parties. R.S.O. 1897, c. 226, s. 39.

Notice of result of appeal.

43. The clerk shall by registered letter immediately after the close of the Court, notify all appellants of the result of their appeals and also of the date of the closing of the Court of Revision. R.S.O. 1897, c. 226, s. 40.

APPEALS FROM COURT OF REVISION.

Appeal to County Judge

44. An appeal from the Court of Revision shall lie to the Judge, not only against a decision of the Court of Revision, but also against the omission, neglect or refusal of said Court to hear or decide an appeal. R.S.O. 1897, c. 226, s. 41.

Time for giving notice of appeal.

45. The person appealing shall, in person or by solicitor or agent, file with the clerk of the municipality within ten days after the date of the closing of the Court of Revision, a written notice of his intention to appeal to the Judge. R.S.O. 1897, c. 266, s. 42.

Clerk to notify Judge and Judge to fix time and place for hearing appeals.

46. The clerk shall immediately after the time limited for filing appeals, forward a list of the same to the Judge, who shall then notify the clerk of the day he appoints for the hearing thereof and shall fix the place for holding such hearing at the town hall or other place of meeting of the council of the municipality from the Court of Revision of which the appeal is made, unless the Judge for the greater convenience of the parties and to save expense fixes some other place for the hearing. R.S.O. 1897, c. 226, s. 43.

Notice to persons appealed against.

47. The clerk shall thereupon give notice to all parties appealed against, in the same manner as is provided for giving notice on a complaint to the Court of Revision, but in the event of failure by the clerk to give the required notice, or to have the same given within proper time, the Judge may direct notice to be given for some subsequent day upon which he may try the appeals. R.S.O. 1897, c. 226, s. 44.

Time for giving judgment

48. At the Court so holden the Judge shall hear the appeals and may adjourn the hearing from time to time, but shall deliver judgment not later than 30 days after the hearing. R.S.O. 1897, c. 226, s. 45.

Clerk of Court.

49.—(1) The clerk of the municipality shall be the clerk of such Court, and shall record the proceedings thereof and shall have the like powers as the clerk of a Division Court as

to the issuing of subpoenas to witnesses upon the application of any party to the proceedings or upon an order of the Judge, for the attendance of any person as a witness before him.

(2) The fees to be allowed to witnesses upon an appeal to the Judge under this Act shall be those allowed to witnesses in an action in the Division Court. R.S.O. 1897, c. 226, s. 46. Witness fees.

50. In all proceedings before the Judge as aforesaid, he shall possess all such powers for compelling the attendance of and for the examination on oath of all parties, and all other persons whatsoever, and for the production of books, papers and documents, and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the Division Court or County Court. R.S.O. 1897, c. 226, s. 47. Powers of Judge on appeal.

Fees and costs of Appeals.

51. The costs of any proceeding before the Court of Revision, or before the Judge as aforesaid, shall be paid or apportioned between the parties in such manner as the Court or Judge thinks fit, and the same shall be enforced when ordered by the Court of Revision by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the Judge, by execution to be issued as the Judge may direct, either from the County Court or any Division Court within the county in which the municipality is situate. R.S.O. 1897, c. 226, s. 48. Apportionment of costs—enforcing payment.

52. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other, and the same shall be taxed according to the allowance in the Division Court for such costs, and in cases where execution issues, the costs thereof as in the like Court, and of enforcing the same, may also be collected thereunder. R.S.O. 1897, c. 226, s. 49. What costs may be awarded—taxation of.

53. The Judge shall be entitled to receive from the municipality as his expenses for holding court in any place in the municipality, other than the county town, for the hearing of appeals from the Court of Revision, the sum of five dollars per day and disbursements necessarily incurred. R.S.O. 1897, c. 226, s. 50. Fees and expenses of Judge.

54. The decision of the Judge shall be final and conclusive. R.S.O. 1897, c. 226, s. 51. Decision to be final.

55. Any change in the assessment of the engineer or surveyor made by the Court of Revision or by the Judge in

with result of appeal therefrom shall be given effect to by the clerk of the municipality altering the assessments and other parts of the schedule to comply therewith, and the by-law shall, before the final passing thereof, be amended to carry out any changes so made by the Court of Revision or Judge. R.S.O. 1897, c. 226, s. 52.

ISSUE OF DEBENTURES.

Debentures may include principal and interest in one sum.

56. Any municipal council issuing debentures under this Act may include the interest on the debentures in the amount payable, in lieu of the interest being payable annually in respect of each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest, shall be taken to authorize the issue of debentures in accordance with this section, to the same amount with interest added. R.S.O. 1897, c. 226, s. 53.

Payment of assessment before debentures issued.

57. Any owner of lands or roads, including the municipality, assessed for the work, may pay the amount of the assessment against him or them, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionately reduced. R.S.O. 1897, c. 226, s. 54.

Informalities not to invalidate debentures.

58. No debentures issued under any by-law for the construction or maintenance of any drainage work shall be held to be invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums in the aggregate not exceeding the amount authorized by the by-law. R.S.O. 1897, c. 226, s. 55.

When debentures to be valid and binding to extent of amount advanced.

59. Any debentures issued and sold to provide any sum of money for the construction or repair of any drainage work shall be good in the hands of the purchaser, and be binding upon the corporation issuing them, to the extent of the money actually advanced on the security and interest thereon, according to the provisions of the same, provided no application to quash be made within six weeks from the final passing of the by-law authorizing the issue thereof, notwithstanding that the by-law is afterwards quashed or declared illegal in any proceedings. R.S.O. 1897, c. 226, s. 56.

WORK NOT CONTINUED INTO ANOTHER MUNICIPALITY.

Drainage work not continued into another municipality.

60.—(1) Where any drainage work is not continued into any other than the initiating municipality, any lands or roads in the initiating municipality or in any other municipality, or roads between two or more municipalities, which will, in the opinion of the engineer or surveyor, be benefited by such

work or furnished with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, may be assessed for such proportion of the cost of the work as to the engineer or surveyor seems just.

(2) A drainage work shall not be deemed to be continued into a municipality other than the initiating municipality, merely by reason of such drainage work or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. R.S.O. 1897, c. 226, s. 57.

Work on boundary road allowance.

61. Where it is necessary to construct a drainage work for the drainage of an area composed of lands or roads lying on either side of a boundary line between two municipalities, the council of either municipality may proceed upon a petition of the majority of owners of lands or roads within such area in all respects as if such area were entirely within the limits of such municipality.

Where area lies in either side of boundary road.

62. Where it is necessary to construct any drainage work or any part thereof on a road allowance used as a boundary line between two or more municipalities, the municipal council of each of the adjoining municipalities may, on the petition of the majority of owners in the area therein described and within its own limits, authorize the same to be constructed on the allowance for road between the municipalities, and may make the road as provided by section 10, and the engineer or surveyor may assess and charge the lands and roads benefited or otherwise liable to assessment in the adjoining municipality or municipalities, as well as the road allowance, with such proportion of the cost of constructing the said work as he may deem just. R.S.O. 1897, c. 226, s. 58.

Construction of drainage work on road allowance.

WORK CONTINUED INTO ANOTHER MUNICIPALITY.

63. Where it is required to continue any drainage work beyond the limits of the municipality, the engineer or surveyor employed by the council of such municipality may continue the work on or along or across any allowance for road or other boundary between any two or more municipalities, and from any such road allowance or other boundary into or through any municipality until he reaches a sufficient outlet; and in every such case he may assess and charge regardless of municipal boundaries, all lands and roads to be affected by benefit, outlet or relief, with such proportion of the cost of the work as to him may seem just; and in his report thereon he shall estimate separ-

Continuing work beyond the limits of municipality.

ately the cost of the work within each municipality and upon the road allowances or other boundaries. R.S.O. 1897, c. 226, s. 59.

Charging
neighbouring
municipality
when work
does not
enter same.

64. Wherever any lands or roads in or under the jurisdiction of any adjoining or neighbouring municipality, other than the municipalities into or through which the drainage work passes, are, in the opinion of the engineer or surveyor of the initiating or other municipality doing the work or part thereof, benefited by the drainage work or provided with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, he may assess and charge the same as is provided in the next preceding section. R.S.O. 1897, c. 226, s. 60.

SETTLING ASSESSMENTS, ETC., BETWEEN MUNICIPALITIES.

Council of
initiating
municipality
to serve
other municipi-
palities to be
affected.

65. The council of any initiating municipality shall serve the head of the municipality or municipalities into or through which the work is to be continued, or whose lands or roads are assessed without the drainage work being continued into it, with a copy of the report, plans, specifications, assessments and estimates of the engineer or surveyor on the proposed work, and unless the same are appealed from as hereinafter provided, they shall be binding on each and every corporation whose council is so served, and the council of the initiating municipality shall be entitled, in the event of no appeal, to proceed with the by-law, and authorize and construct or procure the construction of the whole drainage work in accordance therewith. R.S.O. 1897, c. 226, s. 61.

Municipality
served to
raise and pay
over its pro-
portion of
cost.

66. The council of the municipality so served, shall in the same manner as nearly as may be, and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed had petitioned as provided in section 3 of this Act, pass a by-law or bylaws to raise, and shall raise and pay over to the treasurer of the initiating municipality within four months from such service, the sum that may be named in the report as its proportion of the cost of the drainage work, or, in the event of an appeal from the report, the sum that may be determined by the Referee or Court of Appeal, and such council shall hold the Court of Revision for the adjustment of assessments upon its own ratepayers in the manner hereinbefore provided. R.S.O. 1897, c. 226, s. 62.

Appeal to
referee from
report of
engineer.

67.—(1) The council of any municipality served as provided by section 61 may, within six weeks after such service upon its head, appeal to the Referee from the report, plans, specifications, assessments and estimates of the engineer or

surveyor, by serving the head of the council from which they received the copy, and also the head of the council of any other municipality assessed by the engineer or surveyor with a written notice of appeal, setting forth therein the reasons for such appeal.

(2) The reasons of appeal which shall be set out in such notice may be the following or any of them:—

Grounds of
appeal.

(a) Where the assessment against the appealing municipality exceeds \$1,000, or exceeds the estimated cost of the work in the initiating municipality,—

1. That the scheme of the drainage work as it affects the appealing municipality should be abandoned or modified, on grounds to be stated;
2. That such scheme does not provide for a sufficient outlet;
3. That the course of the drainage work, or any part thereof, should be altered;
4. That the drainage work should be carried to an outlet in the initiating municipality or elsewhere.
—R.S.O., c. 226, s. 63 (1); 7 Edw. VII., c. 42, s. 5.

(b) In any case not otherwise provided for.

1. That a petition has been received by the council of the appealing municipality, as provided by section 3 of this Act, from the majority of the owners within the area described in the petition, praying for the enlargement by the appealing municipality of any part of the drainage work lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition;
2. That such appealing municipality objects to paying over its proportion of the cost of the work to the treasurer of the initiating municipality;
3. That the initiating municipality should not be permitted to do the work within the limits of the appealing municipality;
4. That the assessment against lands and roads within

the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. R.S.O. 1897, c. 226, s. 63 (2).

Powers of
referee on
appeal.

68.—(1) Upon an appeal under the preceding section the Referee shall hear and adjudicate upon all questions raised by the notice of appeal, as they may affect any municipality assessed for the drainage work; and he may give to any municipality through or into which the proposed work will be continued, leave to enlarge the same, pursuant to petition in that behalf and according to the report, plans, specifications, assessments and estimates of an engineer appointed by the Referee for that purpose, and may make such order in the premises and as to costs already incurred, and as to costs of the appeal as may seem just.

Appeal to
Court of
Appeal.

(2) The order of the Referee upon such appeal shall be subject to appeal to the Court of Appeal as in other cases, and the decision of the Court of Appeal shall be final and conclusive as to all corporations affected thereby.

Abandon-
ment of work
by initiating
municipality.

(3) The council of the initiating municipality may, by resolution passed within thirty days after the decision of the Referee on the appeal to him or in case of an appeal therefrom after the hearing and determination thereof, abandon the proposed drainage work, subject to such terms as to costs and otherwise as to the Referee or the Court of Appeal may seem just. R.S.O. 1897, c. 226, s. 64.

ASSESSMENT FOR CUT OFF.

Benefit by
cut off.

69. Any lands or roads from which the flow of surface water is by any drainage work cut off, may be assessed and charged for same by the engineer or surveyor of the municipality doing the work; and such assessment shall be classified and scheduled as benefit. R.S.O. 1897, c. 226, s. 65.

AMENDING BY-LAW.

Amendment
of by-law
when in-
sufficient
funds pro-
vided.

70.—(1) Any by-law heretofore passed or which may be hereafter passed by the council of any municipality for the assessment upon the lands and roads liable to contribute for any drainage work and which has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage work or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the council, and further debentures

tures may be issued under the amending by-law in order to fully carry out the intention of the original by-law.

(2) Where in any such case lands and roads in another municipality are assessed for the drainage work, the council of the initiating municipality shall procure an engineer or surveyor to make an examination of the work and to report upon it with an estimate of the cost of completion for which sufficient funds have not been provided under the original by-law, and shall serve the heads of the other municipalities as in the case of the original report, plans, specifications, assessments and estimates; and the council of any municipality so served shall have the same right of appeal to the Referee as to the improper expenditure or illegal or other application of the drainage money already raised and shall be subject to the same duty as to raising and paying over its share of the money to be raised, as, in the case of the original by-law, is provided by sections 66 and 67.

When lands and roads in another municipality assessable.

(3) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage work and acted upon by the completion of the work, which provides more than sufficient funds for the completion of or proper contribution towards the work or for the redemption of the debentures authorized to be issued thereunder as they become payable shall be amended, and if lands and roads in any other municipality are assessed for the drainage work the surplus money shall be divided *pro rata* among the contributing municipalities, and every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the assessment in payment of the rates imposed by it for the work in each and every year after the completion of the work.

Amendment of by-law which provides more than sufficient funds and distribution of surplus.

(4) Any by-law passed prior to the 1st day of June, 1894, by the council of any county or union of counties for the assessment of the cost of any drainage work upon the lands and roads liable to contribute therefor which has been acted upon by the doing of the work in whole or in part and which does not provide sufficient funds to complete the drainage work, or the share of the said county or union of counties of the cost thereof, or does not provide sufficient funds for the redemption of the debentures issued under such by-law, as they become payable, may from time to time be amended by the council and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law; provided that every such drainage work shall, when fully completed, be maintained as provided in section 74 of this Act. R.S.O. 1897, c. 226, s. 66.

Amendment of by-law not providing sufficient funds.

Issuing debentures for completion of county drainage works commenced before 57 V. c. 56.

Publication
of amending
by-laws.

Rev. Stat.
c. 40.

71. It shall be in the discretion of the council whether an amending by-law passed under any of the provisions of the preceding section shall be published or not, and the provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of the said section, which have heretofore been or may hereafter be purchased by direction of the Lieutenant-Governor in Council. R.S.O. 1897, c. 226, s 67.

MAINTENANCE OF DRAINAGE WORK.

Maintenance
of work not
continued
into another
municipality.

72. Any drainage work constructed under a by-law of any municipality passed in pursuance of this or any former Act relating to the construction of drainage work by local assessment, and which is not continued into any other municipality, shall after the completion thereof be maintained by the initiating municipality.

(a) If no lands or roads in any other municipality are assessed for the construction thereof, then at the expense of the lands and roads in the initiating municipality in any way assessed for such construction, according to the assessment of the engineer or surveyor in his report and assessment for the original construction of such drainage work, or,

(b) If lands or roads in any other municipality or roads between two or more municipalities are in any way assessed for the construction of such drainage work, then at the expense of all the lands and roads in any way assessed for such construction in the municipalities affected, and in the proportion determined by such report and assessment, or in appeal therefrom by the award of arbitrators or order of the referee,—

Unless or until such assessment or proportion as the case may be, is varied or otherwise determined from time to time by the report and assessment of an engineer or surveyor for the maintenance of the drainage work, or in appeal therefrom by the order of the Referee. R.S.O. 1897, c. 226, s. 68.

Maintenance
of drainage
work passing
into another
municipality.

73. Any drainage work heretofore constructed under a by-law of a municipality, passed in pursuance of any Act relating to the construction of any drainage work by local assessment, or hereafter constructed under the provisions of this Act, which is continued into or through more than one municipality, or which is commenced by the initiating municipality on a road allowance adjoining such municipality and

is continued thence into the lands of any other municipality shall after the completion thereof be maintained by the initiating municipality from the point of commencement of the drainage work in the municipality or upon such road allowance to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, and by such last mentioned municipality and by every other municipality through or into which the drainage work is continued from the point at which the drainage work crosses the boundary line between a road allowance and lands in the municipality to an outlet in the municipality or on a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof and in the proportion determined by the engineer or surveyor in his report and assessment for the original construction or in appeal therefrom by the award of arbitrators or order of the Referee, unless and until, in the case of each municipality, such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the Referee. R.S.O. 1897, c. 226, s. 69.

74.—(1) Where a drainage work constructed before the 5th day of May, 1894, under the provisions of *The Ontario Drainage Act* or any Act in amendment thereof or under a by-law passed by a county council does not extend beyond the limits of one municipality, such drainage work shall be maintained and kept in repair by such municipality at the expense of the lands and roads in any way liable to assessment under the provisions of this Act.

Maintenance of drains constructed by government or under county by-laws.

Rev. Stat. 1887, c. 86.

(2) Any drainage work constructed before the 5th day of May, 1894, under *The Ontario Drainage Act* or any Act in amendment thereof or under a by-law passed by a county council, which continues from the municipality in which the drainage work commences into or through one or more other municipalities, shall be maintained and kept in repair by the municipality in which the drainage work commences, from the point of commencement to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, or to the outlet on such road allowance as the case may be, and by every other municipality through or into which the drainage work is continued, from the point at which the same crosses the boundary line between any road allowance and lands in the municipality and enters upon such lands to an outlet in the municipality, or on

When such drains extend into another municipality.

Rev. Stat., 1887, c. 86.

a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in an adjoining municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof, and in the proportion determined by the assessors or engineer or surveyor in their assessment roll or report as the case may be, for construction, or in appeal therefrom by the award of arbitrators or order of the Referee, unless and until in the case of each municipality such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the Referee.

(3) A drainage work which commences on a road allowance between two municipalities shall, for the purposes of this section, be deemed to commence in the municipality next adjoining that half of the road allowance upon which the drainage work is begun. R.S.O. 1897, c. 226, s. 70.

Service of by law on municipality in which lands are assessed without drain being continued into it.

75.—(1) The council of any municipality undertaking the repair of any drainage work under sections 72, 73 or 74 of this Act shall, before commencing the repairs serve upon the head of any municipality liable to contribute any portion of the cost of such repairs under the provisions of this Act, a certified copy of the by-law for undertaking the repairs, as the same is provisionally adopted, which by-law shall recite the description, extent and estimated cost of the work to be done and the amount to be contributed therefor by each municipality affected by the drainage work; and the council of any municipality so served may, within thirty days thereafter, appeal from such by-law to the Referee on the ground that the amount assessed against lands and roads in such municipality is excessive or that the work provided for in the by-law is unnecessary, or that such drainage work has never been completed through the default or neglect of the municipality whose duty it was to do the work, in the manner provided in the case of the construction of the drainage work; and the Referee on such appeal may alter, amend or confirm such by-law, or may direct that the same shall not be passed as to him may seem just. The order of the Referee upon such appeal shall be subject to appeal to the Court of Appeal for Ontario, and the decision of the Court of Appeal for Ontario shall be final and conclusive as to all corporations affected thereby. R.S.O. 1897, c. 226, s. 71 (1); 1 Edw. VII., c. 30, s. 1.

Appeal.

Council served to raise and pay over amount required.

(2) The council of every municipality served with the provisional by-law shall, within four months after such service, pass a by-law to raise, and shall, within that period raise

and pay over to the treasurer of the initiating municipality the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as settled on appeal therefrom by the order of the Referee. R.S.O. 1897, c. 226, s. 71 (2).

VARYING ASSESSMENT.

76.—(1) The council of any municipality liable for the maintenance of any drainage work may from time to time as the same requires repairs vary the proportions of assessment for maintenance, on the report and assessment of an engineer appointed by the council to examine and report on the condition of the work, or the portion thereof, as the case may be, which it is the duty of the municipality as aforesaid to maintain and on the liability to contribute of lands and roads which were not assessed for construction, and have become liable to assessment under this Act; and the engineer or surveyor may in his report upon such repairs assess lands and roads in the municipality undertaking the repairs and in any other municipality from which water flows through the drainage work into the municipality undertaking the repairs; but he shall not, except after leave given by the Referee on an application of which notice has been given to the head of every municipality affected, assess for such repairs any lands or roads lying in any municipality into which water flows through the drainage work from the municipality undertaking the repairs.

(2) The proceedings upon such report and assessment shall be the same, as nearly as may be, as upon the report for the construction of the drainage work.

(3) Any council served with a copy of such report and assessment may appeal from the finding of the engineer as to the proportion of the cost of the work for which the municipality is liable to the Referee, and the proceedings on such appeal shall be the same as in other cases of appeals to the Referee under this Act.

(4) Any owner of lands and any ratepayer in the municipality as to roads assessed for such repairs may appeal from such assessment in the manner provided in the case of the construction of the drainage work, and the council of every municipality affected by the report of the engineer or surveyor made under this section shall appoint a Court of Revision for the trial of any appeals in the manner hereinbefore provided. R.S.O. 1897, c. 226, s. 72.

(5) Such assessment as so varied shall thereafter, unless or until it is further varied, form the basis of any assessment for maintenance of the drainage work affected thereby.

REPAIRING WITHOUT REPORT.

Deepening,
widening or
extending
without re-
port of
engineer.

77. The Council of any municipality, whose duty it is to maintain any drainage work for which only lands and roads within or under the jurisdiction of such municipality are assessed, may, after the completion of the drainage work, without the report of an engineer or surveyor upon a *pro rata* assessment on the lands and roads as last assessed for the construction or repair of the drainage work, make improvements thereto by deepening, widening or extending the same to an outlet, provided the cost of such deepening, widening and extending is not above one-fifth of the cost of the construction, and does not exceed in any case \$800; and in every case where the cost of said improvements exceeds such proportion or amount, the proceedings to be taken shall be as provided in section 78 of this Act. R.S.O. 1897, c. 226, s. 74; 1 Edw. VII., c. 30, s. 2; 8 Edw. VII., c. 5, s. 1.

REPAIRING UPON REPORT.

Repairing
upon examina-
tion and re-
port by
engineer.

78—(1) Wherever, for the better maintenance of any drainage work constructed under the provisions of this Act or any Act respecting drainage by local assessment, or to prevent damage to any lands or roads it is deemed expedient to change the course of such drainage work, or make a new outlet for the whole or any part of the work, or otherwise improve, extend, or alter the work, or to cover the whole or any part of it, the council of the municipality or of any of the municipalities whose duty it is to maintain the said drainage work, may, without the petition required by section 3 of this Act, but on the report of an engineer or surveyor appointed by them to examine and report on the same, undertake and complete the change of course, new outlet, improvement, extension, alteration or covering specified in the report, and the engineer or surveyor shall for such change of course, new outlet, improvement, extension, alteration or covering, have all the powers to assess and charge lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner, and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of this Act. R.S.O. 1897, c. 226, s. 75; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 9.

(2) The provisions of this section shall apply to the better maintenance of a natural stream, creek or watercourse which has been artificially improved by local assessment or otherwise, and to any drainage work constructed under the provisions of *The Ontario Drainage Act* in the same manner, to the same extent, and by the same proceedings as are hereby

made applicable to the better maintenance of a drainage work wholly artificial. 6 Edw. VII., c. 37, s. 9.

(3) Such drainage work shall thereafter be maintained as hereinbefore by this Act provided, but on the basis of the new assessment, unless or until such assessment is varied or otherwise determined as provided by section 76 of this Act.

REPAIRING WORK CONSTRUCTED OUT OF GENERAL FUNDS.

79.—(1) Any drainage work heretofore or hereafter constructed out of the general funds of any municipality, or out of the general funds of two or more municipalities, or when constructed by statute labour, or partly by statute labour and partly by general funds, or out of funds raised by a local assessment under a by-law which is afterwards found to be illegal or which does not provide for repairs, need not be repaired out of such general funds, but the council of any of the contributing municipalities may, without the petition required by section 3, on the report of an engineer or surveyor, pass a by-law for maintaining the same at the expense of the lands and roads assessable for such work, and may assess the lands and roads in any way liable to assessment under this Act, for the expense thereof in the same manner, and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of this Act. R.S.O. 1897, c. 226, s. 76; 63 V., c. 38, s.1.

Assessment for repair of work constructed out of general funds.

(2) Any such drainage work may in like manner and under the like procedure as provided in the case of repairs under this section be deepened, widened, extended, or provided with a new outlet for the whole or any part thereof. 4 Edw. VII., c. 10, s. 51.

Deepening, etc., drain constructed out of general funds.

80. The provisions of subsection 6 of section 9 of this Act shall apply to any work done under the provisions of sections 76 or 78 of this Act.

MANDAMUS TO COMPEL REPAIR.

81.—(1) Upon reasonable notice in writing from any person or municipality interested in a drainage work who or whose property is injuriously affected by the condition of the drainage work, the municipality whose duty it is to maintain and keep in repair the drainage work, shall be compellable by mandamus issued by the Referee or other Court of competent jurisdiction to exercise the powers and to perform the duties conferred or imposed upon it by sections 72 to 79 of this Act, or such of the said powers as to the

Power to compel repairs by mandamus.

Referee or Court may seem proper, and shall also be liable in pecuniary damages to the person or municipality who or whose property is so injuriously affected

(a) Any party to such proceedings may by leave of the Referee or of the Court of Appeal or a Judge thereof, appeal to the Court of Appeal from the decision or judgment of the Referee.

(b) A mandamus against the municipality shall not be moved for until after the lapse of thirty days from the date of the service of the notice. See R.S.O. 1897, c. 226, s. 73.

REPAIRS BY OWNERS.

Duty of owners as to cleaning out and maintaining banks.

82. It shall be lawful for the council of any municipality to pass a by-law or by-laws providing that it shall be the duty of the owner of every lot or part of a lot assessed for benefit to clean out the drain and keep the same free from obstructions which may hinder or impede the free flow of the water, and to remove therefrom all weeds and brushwood and to keep the banks of the drain in order to the extent and in manner or proportion and for the distance determined by the engineer in his report, and in case any such owner makes default in so doing for thirty days after notice in writing from the council of the municipality the work may be done by the said council or by any officer appointed by them for the purposes of the said drain and the cost thereof after notice of the same to the person so making default and liable therefor shall be placed on the collector's roll against the lands of such owner and shall be chargeable against the said lands and be collected in the same manner as other municipal or drainage assessments., 63 V., c. 38, s. 2 (1).

Engineer to apportion work of cleaning out drain among owners.

(2) The engineer or surveyor shall in his report state the portion of the said drain already or thereafter to be constructed which shall be by each owner assessed for benefit, cleaned out and kept clear and free from obstructions and in good order as prescribed by this section. 63 V., c. 38, s. 2 (2): 3 Edw. VII., c. 22, s. 2: 6 Edw. VII., c. 37, s. 8 (2).

Persons responsible for obstruction to remove same on notice.

83.—(1) When any drainage work, heretofore or hereafter constructed, becomes obstructed by dams, low bridges, fences, washing out of private drains, or other obstructions, for which the land adjoining the drainage work or the owner or person in possession thereof is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council or by an inspector appointed by the

council for the inspection and care of drains, remove such obstructions in any manner caused as aforesaid, and if not so removed within the time specified in the notice, the council or the said inspector, shall forthwith cause the same to be removed.

(2) The Council may, by by-law, appoint an inspector for the purposes mentioned in the preceding subsection, and shall in the by-law regulate the fees or other remuneration to be received by him. Inspector of drains.

(3.) If the cost of removing such obstruction is not paid by the owner or occupant of the lands liable, to the municipality forthwith after the completion of the work, the council may pay the same, and the clerk of the municipality shall place such amount upon the collector's roll against the lands liable, with ten per cent. added thereto, and the same shall be collected like other taxes, subject, however, to an appeal to the Judge by the owner or occupant, in respect of the cost of the work. R.S.O. 1897, c. 226, s. 78. Collection of cost of removal by municipality

84. The council of any municipality may by by-law direct that the Inspector appointed under section 83 shall from time to time remove from any drainage work all weeds and brushwood, fallen timber or other minor obstructions for which the owner of the lands adjacent to the drainage work may not be responsible and the cost of such work shall be chargeable from time to time against the lands assessed for the maintenance of the drainage work and in the proportion fixed by the by-law authorizing the drainage work, but it shall not be necessary to assess and levy the amount so charged more than once in every five years after the passing of such first mentioned by-law, unless in the meantime the total expense incurred shall exceed the sum of \$100. 7 Edw. VII., c. 42, s. 1. Minor repairs.

CUTTING EMBANKMENTS, BANKS, ETC.

85. Any person who obstructs, fills up or injures any drainage work, or destroys, cuts, or injures any embankment of any pumping works, or of any other drainage work, in addition to his liability in civil damages therefor, upon the complaint of the council of the municipality or of any person affected by such obstructing, filling up, destroying, cutting, or injuring, upon summary conviction thereof, shall incur a penalty of not less than \$5 nor more than \$100 and shall also be liable to imprisonment for any term not exceeding six months, and in default of payment of such penalty shall further be liable to imprisonment for any term not exceeding three months. R.S.O. 1897, c. 226, s. 79. Penalty for injury to embankments, etc.

REMOVING ARTIFICIAL OBSTRUCTIONS.

Removal of
dams, etc.,
on construc-
tion of work.

86. Wherever, in the construction of any drainage work any dam or other artificial obstruction exists in the course of or below the work, and is situate wholly within the municipality doing the work, the council shall have power, with the consent of the owner thereof and of the council or councils of the other municipalities liable to assessment for the cost of the work, and upon payment of such purchase money as may be mutually agreed upon, or in default of such consent or agreement be determined by the Referee, to remove the same wholly or in part; and any amount so paid or payable as purchase money shall be deemed part of the cost of construction and be provided for in the assessment by the engineer or surveyor. R.S.O. 1897, c. 226, s. 80; 4 Edw. VII., c. 10, s. 52.

OPERATING PUMPING WORKS.

Appointment
of commis-
sioners for
pumping
works, etc.

87.—(1) For the better maintenance of drainage work by embanking, pumping or other mechanical operations, the council of the municipality initiating the work may pass by-laws appointing a commissioner or commissioners who shall have power to enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings, and purchase and repairs of machinery, and to do all other things necessary for successfully operating such drainage work, as may be set forth in the by-law appointing them; and the council may pass by-laws for defraying the annual cost of maintaining and operating the work by assessment upon the lands and roads in any way liable to assessment under the provisions of this Act. R.S.O. 1897, c. 226, s. 81 (1); 8 Edw. VII., c. 52, s. 3. *Amended.*

Commission-
ers of pump
ing works.

(2) Upon the petition of two-thirds of the resident owners in the drainage territory, the council of the municipality may pass by-laws empowering the commissioner or commissioners appointed under this section to use all buildings, machinery and equipments belonging to and in connection with any drainage pumping works, and to operate the same for such purposes and upon such terms as may be set forth in such by-laws but so that the profits or benefits of such user shall accrue to the owners. R.S.O. 1897, c. 226, s. 81, (2).

Assuming
pumping
works, etc.,
constructed by
private
persons.

88. Upon the petition of two-thirds of the persons interested in any drainage work constructed by embanking, pumping or other mechanical operations, and not constructed by the municipality, the council of the municipality in which the work is situate may assume the work and maintain and operate the same, in the same manner and to the same extent

as if the said drainage work had been constructed under the provisions of this Act, but at the cost of the lands and roads liable to be assessed for the work. R.S.O. 1897, c. 226, s. 82.

DEBENTURES FOR MAINTENANCE.

89. —(1) Where the maintenance of any drainage work is so expensive that the municipal council liable therefor deems it inexpedient to levy the cost thereof in one year, the said council may pass a by-law to borrow, upon the debentures of the municipality, the amount necessary for the work, or its proportion thereof, and shall assess, and levy upon the lands and roads liable therefor a special rate sufficient for the payment of the debentures.

Powers to issue debentures for cost of maintenance.

(2) Where such debentures are issued for work done under the provisions of section 78 of this Act, such debentures shall be payable within twenty years from the date thereof, and where such debentures are issued for the cost of repairs undertaken under any other provision such debentures shall be payable within seven years from the date thereof.

(3) The provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under any by-laws passed under this section, which has before its final passing³ been published or of which the ratepayers have been notified in manner provided by this Act or which has, after its passing been promulgated as required by section 375 of *The Consolidated Municipal Act, 1903*. R.S.O. 1897, c. 226, s. 83; 63 V., c. 38, s. 3.

3 Edw. VII. c. 19.

PAYING BACK ADVANCES.

90. Any moneys which have been or may hereafter be advanced by the council of any municipality out of its general funds for the purpose of any drainage work, in anticipation of the levies and collections therefor, shall be repaid into the general funds of the municipality as soon as the moneys first derived from the assessment are collected. R.S.O. 1897, c. 226, s. 77.

Repayment of advances from general funds on receipt of assessments.

MAKING AWARD DRAINS MUNICIPAL.

91. Upon a petition presented to the council of any municipality as provided for in section 3 of this Act, having within the area described therein any drain constructed under *The Ditches and Watercourses Act* or any other Act providing for assessment in work, signed by a majority of the owners interested in such ditch or drain, the said council may assume the

Power to bring drains constructed under Rev. Stat. c. 285, within this Act.

same and proceed thereon in the same manner and to the same extent as for the construction of any drainage work under the provisions of this Act, and the passing of the by-law under the provisions of this Act shall in every such case be a bar to any further proceedings upon the award or under the provisions of the Act upon which such award is based. R.S.O. 1897, c. 226, s. 84.

COST OF REFERENCE AND INCIDENTAL EXPENSES.

Certain expenses to be deemed part of the cost of the work.

92. Except where otherwise provided by this Act, the cost of any reference had in connection with the construction or maintenance of any drainage work, the cost of the publication or service of by-laws, and all other expenses incidental to the construction or maintenance of the work and the passing of the by-laws, shall be deemed part of the cost of such work, and shall be included in the amount to be raised by local rate on all lands and roads liable therefor. R.S.O. 1897, c. 226, s. 86.

LANDLORD AND TENANT.

Tenant's covenant to pay taxes—when to include drainage assessments.

93. Any agreement on the part of any tenant to pay the rates or taxes in respect of the demised lands, shall not include the charges and assessments for any drainage work unless such agreement in express terms so provides; but in cases of contracts to purchase or of leases giving the lessee an option to purchase, the said charges and assessments for drainage work in connection with which proceedings were commenced under this Act, after the date of the contract or lease, and which have been already paid by the owner, shall be added to the price and shall be paid by the purchaser or the lessee in case he exercises his option to purchase; but the amount still unpaid on the cost of the work or repair, and charged against the lands shall be borne by the purchaser unless otherwise provided by the conveyance or agreement. R.S.O. 1897, c. 226, s. 87.

DRAINAGE REFEREES.

Referees, appointment of.

94.—(1) The Lieutenant-Governor in Council from time to time may appoint two referees for the purpose of the drainage laws; that is to say, *The Ontario Drainage Act*, the provisions of this Act, and other Acts, and parts of Acts on the same subject.

To be officers of High Court.

(2) Such referees shall be deemed to be and shall be officers of the High Court.

Qualification.

(3) They shall be barristers of at least ten years' standing at the Bar of Ontario.

(4) They shall hold office by the same tenure as official referees under *The Judicature Act*. Tenure of office.

(5) They shall not practise as solicitors or barristers in any matter arising under this Act, nor act as legal agents or advisers in any such matter. Not to practise.

(6) They shall each be paid a salary of such amount as may be appropriated by the Legislature for the purpose (not exceeding \$3,500 a year) to be paid monthly, together with their reasonable travelling expenses. Salary.

(7) One of the said Referees shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in the Counties of Stormont, Dundas and Glengarry, Prescott and Russell, Leeds and Grenville, Frontenac, Lennox and Addington, Prince Edward, Hastings, Northumberland and Durham, Victoria, Haliburton, Peterborough, Renfrew, Lanark, Carleton, and the other Referee shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in all the other counties and districts in the Province of Ontario. Jurisdiction

(8) Where either of the Referees is absent or owing to illness or other cause is unable to act, or where the office of either Referee is vacant, the remaining Referee shall act and shall have jurisdiction as Referee over the whole Province until the vacancy is filled or the other Referee is able to act. Absence or illness.
R.S.O. 1897, c. 226, s. 88; 6 Edw. VII., c. 37, s. 6.

95.—(1) The Referee shall have the powers of an Official Referee under *The Judicature Act* and *The Arbitration Act* and of arbitrators under any former enactments relating to drainage works, R.S.O. 1897, c. 226, s. 89 (1). Referee to have powers of an official referee under Rev. Stat. cc. 51 and 62.

(2) In respect to all applications and proceedings before him or which may come before him under the provisions of this Act, or any former Act relating to drainage works, he shall have the powers of a Judge of the High Court of Justice, including the production of books and papers, the amendment of notices of appeal and of notices of claims for compensation or damages, and of all other notices and proceedings; he may correct errors, or supply omissions, fix the time and place of hearing, appoint the time for his inspection, summon to his aid engineers, surveyors or other experts, and regulate and direct all matters incident to the hearing, trial and decision of the matters before him so as to do complete justice between the parties; he may also grant an injunction or a mandamus in any matter before him under this Act. R.S.O. 1897, c. 226, s. 89 (2); 1 Edw. VII., c. 30, s. 3. Powers as to compelling production, amending notices, etc.
Granting a mandamus or injunction.

Power to determine validity of proceedings and amend report.

(3) The Referee shall have power, subject to appeal as hereinafter provided, to determine the validity of all petitions, resolutions, reports, provisional or other by-laws, whether objections thereto have been stated as grounds of appeal to him or not, and to amend and correct any provisional by-law in question; and, with the engineers's consent and upon evidence given, to amend the report in such manner as may be deemed just, and upon such terms as may be deemed proper for the protection of all parties interested, and, if necessary by reason of such amendments, to change the gross amount of any assessment made against any municipality, but in no case shall he assume the duties conferred by this Act upon the Court of Revision or a County Judge. R.S.O. 1897, c. 226, s. 89 (3).

Interlocutory applications, no appeal from referee thereon.

96. All interlocutory applications for any of the purposes mentioned in subsection 2 of the last preceding section shall be made to the Referee and his order thereon shall be final and conclusive. R.S.O. 1897, c. 226, s. 90.

APPEALS FROM ASSESSMENT.

Notice of appeal from assessment to be filed.

97. A copy of the notice of appeal by any municipality from the report, plans, specifications, assessments, and estimates of an engineer or surveyor or from a provisionally adopted by-law, with an affidavit of service thereof shall, within the time limited by this Act for the service of the same, be filed in the office of the Clerk of the County Court of the county or union of counties in which the drainage work commenced. R.S.O. 1897, c. 226, s. 91.

Amendment of by-law to carry out decision of referee.

98. The by-law of the initiating municipality and of any other municipalities interested shall be amended so as to incorporate and carry into effect the decision or report of the Referee or such decision or report as varied on appeal, as the case may be. R.S.O. 1897, c. 226, s. 92.

Application to set aside drainage by-law, report, petition or resolution to be made by Referee.

99.—(1) Subject to the provisions of section 100 of this Act, applications to set aside, declare void or otherwise directly or indirectly to attack the validity of any petition, report of an Engineer, resolution of a Council, by-law provisionally adopted or finally passed relating to a drainage work as hereinbefore defined as well as all proceedings to determine claims and disputes arising between municipalities or between a company and a municipality or between individuals and a municipality, company or individual in respect of anything done or required to be done under the provisions of this Act or consequent thereon or by reason of negligence or for a mandamus or injunction shall be made to and shall be heard and tried by the Referee who shall hear and de-

termine the same and give his decision and his reasons therefor.

(2) Proceedings for the determination of claims and disputes and for the recovery of damages by reason of negligence or by way of compensation or otherwise or for a mandamus or an injunction under this section shall be instituted by serving 10 clear days' notice setting forth the grounds of the claim for damages or compensation or a mandamus or an injunction as the case may be upon all persons concerned.

Proceedings to be instituted by notice.

(3) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the County Court of the county in which the land is situate and the notice shall be filed and served within two years from the time the cause of complaint arose.

Notice to be filed in County Court.

(4) All affidavits intended to be used in support of a motion shall be filed with the Clerk of the County Court not less than five days before the return day of the motion.

Affidavits to be filed 10 days before motion.

(5) Subject to the provisions of section 100 of this Act, no application or proceeding within the meaning of this section shall be made or instituted otherwise than as herein provided.

Application not to be made otherwise.

(6) Where the amount awarded upon a claim for damages arising out of a drainage work does not exceed \$60, the costs allowed to the plaintiff shall be on the Division Court scale so far as the same is applicable. 9 Edw. VII., c. 78, s. 1.

Costs on claims not exceeding \$60 on Division Court scale.

100.—(1) Where an action is brought or is pending and the Court in which the same is brought or is pending or a Judge thereof is of opinion that the relief sought therein is properly the subject of a proceeding under this Act or that the same may be more conveniently tried before and disposed of by the Referee, the Court or Judge may, on the application of either party, at any stage of the action make an order transferring it to the Referee on such terms as may be deemed just, and the Referee shall thereafter give directions for the continuance of the action before him, which shall be as far as practicable in conformity with the provisions of this Act as to proceedings by a notice of motion, and subject to the order, all costs shall be in his discretion.

Actions may be transferred to Referee.

(2) This section shall apply only where the action is brought within the period limited by this Act for taking proceedings on notice. 9 Edw. VII., c. 78, s. 2.

Application of section.

Decision of
Court of
Appeal to be
final.

101. The decision of the referee in all applications and proceedings under this Act, not otherwise provided for as being final and conclusive between the parties, shall be subject to appeal to the Court of Appeal for Ontario and its decision thereon shall be final, conclusive and binding upon all parties to the application or other proceeding. 1 Edw. VII., c. 30, s. 5.

Assessing
damages and
costs payable
by municipi-
palities.

102. -(1) Save as provided by subsections 2, 3 and 4 of this section all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied *pro rata* upon the lands and roads in any way assessed for the drainage work according to the assessment thereof for construction or maintenance, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act.

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers in the construction of the drainage work or in carrying out the provisions of this Act, the Referee or Court may direct that the whole or any part of such damages and costs shall be borne by such municipality and be payable out of the general funds thereof.

(3) Where in any such proceedings by or against a municipality an amicable settlement is arrived at and carried out by the advice of counsel, the damages and costs payable under the terms of such settlement by any municipality shall be borne and paid as directed by the Referee on application to him on behalf of the council of the municipality or any owner of lands assessed for the construction or maintenance of the drainage work, and in making such direction the Referee shall have regard to the provisions of the next preceding subsection. R.S.O. 1897, c. 226, s. 95.

(4) Where in the opinion of the Referee damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage work and it is necessary in order to prevent a continuance of such damage to improve, extend or alter the said drainage work, the Referee may by his report permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement, extension or alteration, and in such case the engineer shall include the amount of such damages and costs in his estimate of such cost and the same shall thereafter be assessed, levied and collected as if it were part of the actual cost of the drainage work. Any report heretofore made by the Referee and containing such permis-

sion shall be deemed to have been made with the jurisdiction conferred by this subsection as if hereafter made.

PROCEEDING WITH REFERENCE.

103.—(1) The Referee at any time after an appeal or reference is made to him as hereinbefore provided, may give directions for the filing or serving of objections and defences to such appeal or reference and for the production of documents and otherwise, and may give an appointment to either or any party to the appeal or reference, to proceed therewith at such place and time and in such manner as to him may seem proper, but unless the parties otherwise consent the hearing shall be in the county or one of the counties in which the drainage work or proposed drainage work is situate or in which lands are assessed. Referee to direct procedure.

(2) The Clerk of the County Court shall be the Clerk of the Court of the Referee, and shall take charge of and file all the exhibits and shall be entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the County Court. Clerk of Court.

(3) The Clerk shall be entitled to such fees as the Referee may direct, not exceeding \$4 per day for his attendance at the court and such fees shall be included in the costs and shall be borne and paid as the Referee may direct.

(4) The fees payable to the Clerk shall be paid in money and not in stamps.

(5) In the absence of the Clerk of the County Court the Referee may appoint the Referee's clerk or some other person to act as Clerk for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed shall while so acting have the same power and be entitled to the same fees as the Clerk of the County Court would have and be entitled to if personally present. Referee's clerk.

(6) Subpoenas for the attendance of witnesses at the hearing, tested in the name of the Referee, may be issued by the Clerk of the County Court of the county in which the case is to be heard. R.S.O. 1897, c. 226, s. 96. Subpoenas.

104. When the Referee proceeds partly on view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to allow the Court of Appeal to form a judgment of the weight which should be given thereto; and he shall state as part of his When referee proceeds on view or special knowledge.

reasons the effect by him given to such statement. R.S.O. 1897, c. 226, s. 97.

Shorthand
writer.

105. Two or more shorthand writers may from time to time be appointed by the Lieutenant-Governor in Council to report hearings or trials before the Referee, and every such officer shall be deemed to be an officer of the High Court, and shall be paid in the same manner as shorthand writers in the High Court are paid and the several sections of *The Judicature Act* respecting shorthand writers shall apply to any shorthand writer appointed under this Act. R.S.O. 1897, c. 226, s. 98; 6 Edw. VII., c. 37, s. 7.

Rev. Stat., c.
51.

Clerk of
Court to for-
ward notice of
filing report,
etc., to
parties.

106. The decision or report of the Referee with the evidence, exhibits, and statement (if any) of inspection or of technical knowledge and the reason for his decision shall be filed in the office of the Clerk of the County Court, and notice of the filing shall forthwith be given by the Clerk, by post or otherwise, to the solicitors of the parties appearing by solicitor, and to other parties not represented by a solicitor, and also to the clerk of the municipality or other corporation. R.S.O. 1897, c. 226, s. 99.

Report to be
sent to clerk
of each muni-
cipality inter-
ested.

107. A copy of the decision or report certified by the Referee or Clerk aforesaid, shall be sent or delivered to the clerk of every municipality interested in the drainage work in question upon receipt of the sum chargeable therefor, as hereinbefore provided, and shall be kept on file as a public document of the municipality. R.S.O. 1897, c. 226, s. 100.

Decision to be
in form of
order for
judgment

108. The decision or report of the Referee shall be in the form of an order for judgment and may be delivered as decisions by the Judges of the Supreme Court are, and need not be in the form of a report; and unless appealed from to the Court of Appeal, as herein provided, judgment may be entered in the proper office without any further or other application or order. R.S.O. 1897, c. 226, s. 101.

Use of court
house.

109. When an appointment is given by the Referee for the hearing of any matter under this Act in any city, town or place wherein a court house is situated, he shall have in all respects the same authority as a Judge of the High Court in regard to the use of the court house, or other place or apartments set apart in the county for the administration of justice. R.S.O. 1897, c. 226, s. 102.

Sheriffs, etc.,
to assist
referee—fees
therefor.

110. Sheriffs, deputy-sheriffs, constables and other peace officers shall aid, assist and obey the Referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the said Referee,

be paid by the county or counties interested, like fees as for similar services at the sittings of the High Court for the trial of causes. R.S.O. 1897, c. 226, s. 103.

111. Except as in this Act otherwise provided and subject to the provisions thereof, the rules and practice for the time being of the High Court of Justice shall be followed so far as the same are applicable. R.S.O. 1897, c. 226, s. 104. Rules and practice.

112. In cases brought before the Referee in pursuance of the powers conferred by this Act, or by any other Act, the evidence taken before him need not be filed, and need only be written out at length by the shorthand writer, if required by the Referee or by any parties to the reference; and if required by any of the parties to the reference, copies shall be furnished upon such terms as may be fixed by the Lieutenant-Governor in Council. R.S.O. 1897, c. 226, s. 105. Evidence taken before Referee need not be filed or written out.

113. Costs shall be taxed by the Referee; or he may direct the taxation thereof by the Clerk of the County Court with whom the papers are filed, or by any taxing officer of the High Court. R.S.O. 1897, c. 226, s. 106. Taxation of costs.

114. Fees shall be paid in stamps or otherwise in the same manner as in the case of other proceedings in the said courts respectively, until other provision is made in that behalf by competent authority. R.S.O. 1897, c. 226, s. 107. Fees on trial.

115. To provide a fund for or towards the payment of the Referee's salary and other expenses, there shall be further payable a sum which shall be determined by the Referee and mentioned in his decision or report or in a subsequent report; the said sum not to exceed the rate of four dollars a day for every full day the trial occupies, and shall be paid in stamps by one or the other of the parties, or distributed between or among the parties as the Referee directs. R.S.O. 1897, c. 226, s. 108. Fees on trial.

116. The decision or report of the Referee shall not be given out until stamped with the necessary stamps. R.S.O. 1897, c. 226, s. 109. Reports to be stamped.

117.—(1) The decision or report of the Referee, on any appeal or reference under this Act, or in any action or proceeding transferred or referred to him under this Act shall be binding and conclusive upon all parties thereto, unless appealed from to the Court of Appeal within one month after the filing thereof, or within such further time as the Referee or the Court of Appeal or a Judge thereof may allow, save as otherwise provided by this Act in any case where it is declared that the decision of the Referee shall be final. Time for appealing to Court of Appeal. Rev. Stat. c. 62.

(2) The decision or report may be appealed against to the Court of Appeal in the same manner as from a decision of a Judge of the High Court sitting in Court. R.S.O. 1897, c. 226, s. 110.

RULES AND TARIFF OF COSTS.

Judges of
Supreme
Court may
make rules.

118. The Judges of the Supreme Court shall have the same authority to make general rules with respect to proceedings before the Referee and appeals from him as they have with respect to proceedings under *The Judicature Act*; and sections 122 to 125 of *The Judicature Act* shall apply thereto. R.S.O. 1897, c. 226, s. 111.

Rev. Stat.
c. 51.

Referee may
make rules.

119.—(1) Subject to any such general rules the Referee shall have power, with the approval of the Lieutenant-Governor in Council, to frame rules regulating the practice and procedure to be followed in all proceedings before him under this Act, and also to frame tariffs of fees in cases not otherwise provided for.

(2) Such rules and tariffs, whether made by the Judges or the Referee, shall be published in the *Ontario Gazette* and shall thereupon have the force of law; and the same shall be laid before the Legislative Assembly at its next Session after promulgation thereof. R.S.O. 1897, c. 226, s. 112.

Tariff of
County Court
adopted until
rules made.

120. Until other provisions are made under the last two preceding sections the tariff of the County Court shall be the tariff of costs and of fees and disbursements for solicitors and officers under this Act and the Referee shall have the power to fix counsel fees. R.S.O. 1897, c. 226, s. 113.

Repeal.

121. Chapter 226 of The Revised Statutes of Ontario and all amendments thereto except the proviso to Section 10 of the Act passed in the 6th year of His Majesty's reign and chaptered 37 are repealed.

SCHEDULE A.

FORM OF PETITION FOR DRAINAGE WORK.

(Section 4).

The petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll of the township of _____ in the county of _____ to be the owners of the lands to be benefited within said township, and hereinafter described, sheweth as follows:

Your petitioners request that the area of land within the said township and being described as follows: that is to say, lots numbered 1 to 10 inclusive in the first concession; lots lettered A to H inclusive in the second concession; north-west halves of lots

numbered 4 to 12 inclusive in the third concession; the side-road between lots numbered 7 and 8 in the first concession, and the road allowance between concessions 1 and 2 and between 2 and 3 (as the case may be, or describing the area by metes and bounds), may be drained by means of:—

1. A drain or drains.

2. Deepening, straightening, widening, clearing of obstructions or otherwise improving the stream, creek or watercourse, known as (name or other general designation).

3. Lowering the water of lake or the pond known as (name or other general designation), (or by any or all of said means.)

And your petitioners will ever pray:—

57 V., c. 56, s. 4.

SCHEDULE B.

FORM OF BY-LAW.

(Section 23.)

A by-law to provide for drainage work in the of
in the county of and for borrowing on
the credit of the municipality, the sum of for completing
the same (or the sum of the proportion to be contributed by said municipality for completing the same).

Provisionally adopted the day of A.D. 19

Whereas the majority in number of the resident and non-resident owners (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll, of the property herein-after set forth to be benefited by drainage work (as the case may be) have petitioned the council of the said of
praying that (here set out the purport of the petition, describing generally the lands and roads to be benefited).

And whereas, thereupon the said council has procured an examination, to be made by , being a person competent for such purpose, of the said area proposed to be drained and the means suggested for the drainage thereof, and of other lands and roads liable to assessment under *The Municipal Drainage Act*, and has also procured plans, specifications and estimates of the drainage work to be made by the said and an assessment to be made by him of the lands and roads to be benefited by such drainage work, and of other lands and roads liable for contribution thereto, stating as nearly as he can the proportion of benefit, outlet liability and injuring liability, which in his opinion will be derived or incurred in consequence of such drainage work by every road and lot, or portion of lot, the said assessment so made being the assessment hereinafter by this by-law enacted to be assessed and levied upon the roads and lots, or parts of lots hereinafter in that behalf specially set forth and described; and the report of the said in respect thereof, and of the said drainage work being as follows: (here set out the report of the engineer or surveyor employed.)

And whereas the said council are of opinion that the drainage of the area described is desirable:—

Therefore the said municipal council of the said of
 , pursuant to the provisions of *The Municipal Drainage*
Act, enacts as follows:—

1st. The said report, plans, specifications, assessments and estimates are hereby adopted, and the drainage work as therein indicated and set forth shall be made and constructed in accordance therewith.

2nd. The reeve (or mayor) of the said may borrow on the credit of the corporation of the said of the sum of dollars, being the funds necessary for the work *not otherwise provided for* (or being said municipality's proportion of the funds necessary for the work), and may issue debentures of the corporation to that amount in sums of not less than \$50 each, and payable within years from the date of the said debentures with interest at the rate of per centum per annum, that is to say: *(insert the manner of payment annually and whether with or without coupons and if the latter, omit the last clause of this paragraph)* such debentures to be payable at , and to have attached to them coupons for the payment of interest.

3rd. For paying the sum of (\$410), the amount charged against the said lands and roads for benefit, and the sum of (\$108), the amount charged against said lands and roads for outlet liability, and the sum of (\$135), the amount charged against said lands and roads for injuring liability, apart from lands and roads belonging to or controlled by the municipality, and for covering interest thereon for years, at the rate of per centum per annum, the following total special rates over and above all other rates shall be assessed, levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the undermentioned lots and parts of lots and roads, and the amount of the said total special rates and interest against each lot or part of lot respectively shall be divided into equal parts, and one such part shall be assessed, levied and collected as aforesaid, in each year, for years, after the final passing of this by-law, during which the said debentures have to run.

Concession.	Lot or part of lot.	Acres.	Value of benefit.	Value of outlet liability.	Value of injuring liability.	To cover interest for years at per cent.	Total special rate.	Annual assessment during each year for years.
10		5	\$ 100 00	\$ 23 00	\$ c.	\$ c.	\$ c.	\$ c.
10	S. 6	100	50 00	10 00				
10	N. 6	50	30 00	5 00				
10	S. W. 8	100	80 00	13 00				
10	S. W. & N. 9	150	150 00	20 00				
10		4		24 00				
10	S. 3	100		13 00				
9	W. 5	100			40 00			
9	N. 6	50			25 00			
9	N. E. & N. 7	150			70 00			
Total for benefit.			410 00	108 00	135 00			
" outlet.....			108 00					
" injuring.....			135 00					
Roads (and lands) of municipality.....			100 00					
Total.....			\$753 00					

4th. For paying the sum of (\$100), the amount assessed against the said roads and lands of the municipality, and for covering interest thereon for years at the rate of per centum per annum, a special rate on the dollar, sufficient to produce the required yearly amount therefor shall, over and above all other rates, be levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the whole rateable property in the said of in each year for years, after the final passing of this by-law, during which the said debentures have to run.

5th. This by-law shall be published once in every week for four consecutive weeks in the , newspaper, published in the town of (or printed and served or mailed as described), and shall come into force upon and after the final passing thereof, and may be cited as the " By-law."

R.S.O. 1897, c. 37, Sched. B; 6 Edw. VII., c. 37, s. 4.

No. 179

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to revise and consolidate
The Municipal Drainage Laws.

First Reading 23rd day of February, 1910

Mr. HANNA

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Workman's Compensation for Injuries Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Workmen's Compensation for Injuries Act* is amended by adding thereto the following section:—

Rev. Stat.
c. 160
amended.

3a.—(1) Notwithstanding anything in this or any other Act contained, if in any employment personal injury by accident arising out of and in the course of the employment is caused to any conductor, engineer, fireman, brakeman or motorman employed on any railway, street railway or tramway, his employer shall be liable to pay compensation therefor.

Right of rail-
way employee
to damages
for injury.

(2) Provided that:—

Proviso.

(a) Nothing in this Act contained shall affect any civil liability, if any, of the employer existing at common law or otherwise independent of this Act, but such workman may at his option either claim compensation under this section or take proceedings independently of this section, but the employer shall not be liable to pay compensation for injury to any such workman sustained in the course of the employment both independently of and also under this section.

Other
liability not
affected.

(b) If it is proved that the injury to any such workman is attributable to his own serious and wilful misconduct any compensation claimed in respect of that injury shall be disallowed.

Serious or
wilful miscon-
duct of
employee.

Where action
is brought
under other
Act.

(3) If within the time specified in this Act for taking proceedings under this Act, an action is brought to claim damages independently of this Act for injuries caused to any workman within the meaning of this section, and it is proved in such action that the injury is one for which the employer is not liable in such action but that he would have been liable to pay compensation under this section, the action shall be dismissed; but the court in which the action proceeded or the jury shall, if the plaintiff so choose, proceed to assess the compensation under this section; but the court may deduct from such compensation all or part of the costs which in the opinion of the court has been caused defendant by the proceedings taken independently of this section and may enter judgment accordingly.

Notice of
action, com-
pensation,
etc., to be
subject to
provisions of
c. 160.
Rev. Stat.

(4) All proceedings under this section shall be subject to notice of action as in other cases under this Act, and the amount of compensation and the distribution thereof shall likewise be subject to the provisions of this Act as in all other actions and proceedings brought for damages or compensation for injuries sustained under this Act.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend The Workmen's Compensation for Injuries Act.

First Reading 23rd day of Feb., 1910.

Mr. FRASER.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act to revise and consolidate the Municipal Drainage Laws.

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as "*The Municipal Drainage Act.*" R. S. O. 1897, c. 226, s. 1.

INTERPRETATION.

Interpretation. **2.** In this Act,

"Construction." (a) "Construction" shall mean the original opening, making, excavating or completing of drainage work;

"County." (b) "County" shall include a provisional judicial district;

"County Court." (c) "County Court" shall include district court.

"County Judge." (d) "Judge" shall mean the senior, junior, or acting Judge of the County or District Court of the county or district in which the municipality assessing lands or roads for a drainage work is situate, but shall not include a Deputy Judge;

"Court of Revision." (e) "Court of Revision" shall mean a court of revision constituted under the provisions of this Act, for the trial of complaints respecting assessments for drainage work;

"Initiating Municipality." (f) "Initiating Municipality" shall mean the municipality undertaking the construction of any drainage work to which this Act applies;

"Maintenance." (g) "Maintenance" shall mean the preservation and keeping in repair of a drainage work;

"Municipality." (h) "Municipality" shall not include a county municipality;

"Owner,"
"actual owner." (i) "Owner" or "actual owner" shall include the executor or administrator of an owner's estate, the guardian of an infant owner, any person entitled to sell and convey the land, an agent of an owner under a general power of attorney, or under a power of attorney empowering him to deal with lands, and a municipal corporation as regards highways under their jurisdiction;

"Referee."
54 V. c. 51 (j) "Referee" shall mean the Referee for the purpose of the drainage laws of this Province as hereinafter provided;

"Reference." (k) "Reference" shall mean a reference or transfer to the said Referee under the provisions of this Act;

(l) "Relief" shall mean relieving from liability for causing water to flow upon and injure lands or roads; "Relief."

(m) "Sufficient outlet" shall mean the safe discharge of water at a point where it will do no injury to lands or roads. "Sufficient outlet."
R. S. O. 1897, c. 226, s. 2; 6 Edw. VII., c. 37, s. 5.

CONSTRUCTION OF DRAINAGE WORK.

3.—(1)—Upon the petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners) as shown by the last revised assessment roll to be the owners of the lands to be benefited in any area as described in such petition within any township, incorporated village, town, or city, to the municipal council thereof, for the drainage of the area as described in the petition by means of drainage work, that is to say, the construction of a drain or drains, the deepening, straightening, widening, clearing of obstructions, or otherwise improving of any stream, creek or watercourse, the lowering of the waters of any lake or pond, or by any or all of said means as may be set forth in the petition, the council may procure an engineer or Ontario land surveyor to make an examination of the area to be drained, the stream, creek or watercourse to be deepened, straightened, widened, cleared of obstructions or otherwise improved, or the lake or pond, the waters of which are to be lowered, according to the prayer of the petition, and to prepare a report, plans, specifications and estimates of the drainage work, and to make an assessment of the lands and roads within said area to be benefited and of any other lands and roads liable to be assessed as hereinafter provided, stating as nearly as may be, in his opinion, the proportion of the cost of the work to be paid by every road and lot or portion of lot for benefit, and for outlet liability and relief from injuring liability as hereinafter defined. R. S. O. 1897, c. 226, s. 3 (1); 3 Edw. VII., c. 22, s. 1; 6 Edw. VII., c. 37, s. 1; *Ib.* s. 8 (2).
What work may be undertaken on petition
Council to order examination and report by engineer.

(2) The provisions of this Act shall apply and extend to every case where the drainage work can only be effectually executed by embanking, pumping or other mechanical operations, but in every such case the municipal council shall not proceed except upon the petition of at least two-thirds of the owners of lands within the area described according to the preceding subsection. R. S. O. 1897, c. 226, s. 3 (2);
When work requires pumping, embanking etc.

(3) If from the lands or roads of any municipality, company or individual, water is by any means caused to flow upon and injure the lands or roads of any other municipality, company or individual, the lands and roads from which the
When lands may be assessed by engineer for "injuring" liability

water is so caused to flow may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work required for relieving the injured lands or roads from such water, and to the extent of the cost of the work necessary for their relief as may be determined by the engineer or surveyor, Court of Revision, County Judge, or Referee; and such assessment may be termed "injuring liability";

- (a) The owners of the lands or roads thus made liable for assessment shall neither count for nor against the petition required by subsection 1 of this section unless within the area therein described.

When lands may be assessed for "outlet liability."

(4) The lands and roads of any municipality, company or individual using any drainage work as an outlet, or for which when the work is constructed, an improved outlet is thereby provided, either directly or through the medium of any other drainage work or of a swale, ravine, creek or watercourse, may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work so used as an outlet or an improved outlet, and to the extent of the cost of the work necessary for any such outlet, as may be determined by the engineer or surveyor, Court of Revision, County Judge or Referee; and such assessment may be termed "outlet liability."

- (a) The owners of the lands and roads thus made liable to assessment shall neither count for nor against the petition required by subsection 1 of this section, unless within the area therein described. R. S. O. 1897, c. 226, s. 3 (3), (4); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Basis of assessment for outlet and injuring liability.

(5) The assessment for injuring liability and outlet liability provided for in the two next preceding subsections shall be based upon the volume, and shall also have regard to the speed, of the water artificially caused to flow upon the injured lands or into the drainage work from the lands and roads liable for such assessments. R. S. O. 1897, c. 226, s. 3 (5).

PETITION FOR CONSTRUCTION.

Form of petition.

4. The petition shall be in the form or to the effect of Schedule A. to this Act. R. S. O. 1897, c. 226, s. 4.

DUTIES OF ENGINEER OR SURVEYOR.

5. Any engineer or surveyor employed or appointed by any municipal council to perform any work under the provisions of this Act, including the assessment of real property for the purpose of drainage work, shall before entering upon his duty, take and subscribe the following oath, and shall leave the same with, or send it by registered letter to the clerk of the municipality:

In the matter of the proposed drainage work (or as the case may be) in the township of (name).

I (name in full) of the town of _____ in the county of _____ Engineer (or Surveyor) make oath and say, (or do solemnly declare and affirm):

That I will, to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against any owner or owners, or other person or persons whomsoever, perform the duty assigned to me in connection with the above work and will make a true report thereon.

Sworn before me at the _____ of _____
in the county of _____ this _____
day of _____ A.D. 19 _____

A Commissioner, etc. (or Township Clerk, or J. P.)

R.S.O. 1897, c. 226, s. 5; 3 Edw. VII., 3. 22, s. 2; 6 Edw. VII., c. 37 s. 8 (2).

6.—(1) The engineer or surveyor, in assessing the lands to be benefited or otherwise liable for assessment under this Act, need not confine his assessment to the part of the lot actually affected, but may place such assessment on the quarter, half or whole lot containing the part affected as the case may be, if the owner of such part is also the owner of such lot or other said sub-division. R.S.O., 1897, c. 226, s. 6; 3 Edw. VII., c. 22, s. 2.

(2) Where part of a whole lot or of a sub-division or portion of a lot assessed by the engineer has been sold since the final revision of the assessment, the owner of the part so sold or the owner of the remaining portion of the lot or sub-division or portion of a lot so assessed, may give notice to the clerk of the municipality that he requires the said assessment to be apportioned between the owners of the property so assessed and sub-divided, and the township engineer shall thereupon make such apportionment in writing and the same shall be filed with the clerk and shall be by him attached to the original assessment, and shall be binding on the lands assessed in the manner apportioned by the said engineer, and the rate shall thereafter be levied and collected accordingly. The costs of the engineer shall be borne and paid by the parties in the manner which may be fixed or apportioned by such engineer. 62 V. (2), c. 28, s 4.

7. The assessment upon any lands or roads for any drain-

Assessment may be shown in money.

age work may be shown by the engineer or surveyor placing sums of money opposite the lands or roads, and it shall not be necessary to insert the fractional part of the whole cost to be borne by the lands or roads. R.S.O. 1897, c. 226, s. 7; 3 Edw. VII., c. 22, s. 2.

Plans, specifications and estimates.

8. The engineer or surveyor, when required by the council, shall make plans, specifications and detailed estimates of the drainage work to be constructed and charge the same to the work as part of its cost. R.S.O. 1897, c. 226, s. 8; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Bridges and culverts on highways.

9.—(1) The engineer or surveyor shall in his report and estimates provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage work rendered necessary by such work crossing any public highway or the travelled portion thereof; and he shall in his assessment apportion the cost of bridges and culverts between the drainage work and the municipality or municipalities having jurisdiction over such public highway as to him may seem just. R.S.O. 1897, c. 226, s. 9 (1); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Bridges between highways and private lands

(2) The engineer or surveyor shall also in his report and estimates provide for the construction or enlargement of bridges required to afford access from the lands of owners to the travelled portion of any public highway, and he shall include the cost of the construction or enlargement of such bridges in his assessment for the construction of the drainage work, and they shall, for the purposes of construction and maintenance, be deemed part of the drainage work, and the maintenance thereof may include any enlargement from time to time rendered necessary by the drainage work. R.S.O. 1897, c. 226, s. 9 (1), (2); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2). 8 Edw. VII., c. 52, s. 2.

Maintenance of bridges.

Farm bridges.

(3) The engineer or surveyor shall in the same manner provide for the construction or enlargement of bridges rendered necessary by the drainage work upon the lands of any owner, and shall fix the value of the construction or enlargement thereof to be paid to the respective owners entitled thereto, but the land assessed for the drainage work shall not nor shall any municipal corporation be liable for keeping such bridges in repair. R.S.O. 1897, c. 226, s. 9 (3); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Allowing for private ditches, etc.

(4) The engineer or surveyor shall likewise in his report estimate and allow in money to any person, company or corporation the value to the drainage work of any private ditch or drain, or of any ditch constructed under any Act respect-

ing ditches or watercourses which may be incorporated in whole or in part into such drainage work or used therewith. R.S.O. 1897, c. 226, s. 9 (4); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

(5) The engineer or surveyor shall further in his report determine in what manner the material taken from any drainage work, either in the construction or repair thereof, shall be disposed of, and the amount to be paid to the respective persons entitled for damages to lands and crops (if any) occasioned thereby, and shall include such sums in his estimates of the cost of the drainage work or the repairs. Disposal of material taken from drainage work. R.S.O. 1897, c. 226, s. 9 (3)-(5); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

(6) Where, in the opinion of the engineer or surveyor, the cost of continuing the drainage work to a point where the discharge of water will do no injury to lands and roads, or the cost of constructing the drainage work with sufficient capacity to carry off the water, will exceed the amount of injury likely to be caused to low lying lands along the course of, or below the termination of the work, instead of continuing the work to such a point, or constructing it of such capacity, he may include in his estimate of the cost of the drainage work a sufficient sum to compensate the owners of such low lying lands for any injuries they may sustain from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low lying lands in respect of such injuries. Assessment of compensation for damage to low lands instead of constructing drain to an outlet. 2 Edw. VII., c. 32, s. 1; 3 Edw. VII., c. 22, s. 2; 4 Edw. VII., c. 10, s. 50; 6 Edw. VII., c. 37, s. 8 (2). (Amended.)

(7) Any owner of lands affected by the drainage work, if dissatisfied with the report of the engineer in respect of any of the provisions of this section, may appeal therefrom to the Referee, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within 10 days after the adoption of the engineer's report by the council, and the Referee may hear and determine the appeal in a summary manner either on his own view of the premises and after hearing the parties and if he sees fit their witnesses or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the Referee. The Referee, on an appeal under this subsection, may make such order as to him seems just, and his decision shall be final. Appeal to referee. R.S.O. 1897, c. 226, s. 9 (6); 3 Edw. VII., c. 32, s. 2; 9 Edw. VII., c. 78, s. 4.

(8) Forthwith upon the filing of the engineer's report with the clerk of the municipality, the clerk shall, by letter Notice to persons assessed.

or postal card, notify the parties assessed of such assessment and the amount thereof. In case more than one municipality is interested in the proposed work, the clerk of such other municipality or municipalities shall forthwith, upon the filing of a copy of the engineer's report in their office, notify the parties assessed of such assessment and the amount thereof, and he shall also in like manner notify each of the owners of lands in respect of which the report provides for compensation of the date of filing the report, the amount awarded to such owner for compensation and the date of the council meeting at which the report will be read and considered. 62 V. (2), c. 28, s. 5; 2 Edw. VII., c. 32, s. 3.

Notice to owners for whom compensation assessed.

Time for filing report of engineer.

(9) The report of the engineer shall be filed within six months after the filing of the petition, or within such further time as the council may in their discretion from time to time appoint, and the council may adopt the report of the engineer if they see fit notwithstanding that such report is made after the six months herein fixed for making the same or after any extended period fixed by the council under this subsection. 62 V. (2), c. 28, s. 6 *part*; 7 Edw. VII., c. 42, s. 3.

If engineer neglects to do work council may appoint another.

(10) In case the engineer neglects to make his report within the time limited by the preceding subsection, or within the time fixed by the council under the said subsection, he shall forfeit all claim for compensation for the work done by him upon the drain, and the council may employ some other engineer to make the examination, report and assessment required by the preceding section. 62 V. (2), c. 28, s. 6 *part*.

By-law not to be invalid by reason of engineer's report not being filed within six months.

(11) A by-law passed by the council of any municipality for the construction of any drainage work under this Act, upon the report of the engineer, shall not be quashed or declared void or illegal by reason only that the report of the engineer has not been filed within six months after the filing of the petition provided for in this Act, or within the extended period provided for in subsection 9.

Spreading earth and removing timber on road allowances.

10. When a drainage work is to be constructed on or along a road allowance the engineer or surveyor shall, upon the application of the municipal council controlling such road allowance, place in his estimate of the cost of the work a sum sufficient to close-chop, or grub and clear not less than twelve feet of the middle of the road allowance (if required) and to spread thereon the earth to be taken from the work, and shall charge the cost thereof to the municipality, together with its proportion of the cost of the drainage work. R.S.O. 1897, c. 226, s. 10, 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

COVERING DRAINAGE WORK.

11. Where the engineer or surveyor reports in favour of covering the whole or any part of a drainage work constructed under this Act, he shall determine and state in his report the size and capacity thereof and also the material to be used in its construction, and all the provisions of this Act shall apply thereto in the same manner and to the same extent as to an uncovered or open drainage work, but in no case shall the improvement of a creek, stream or natural watercourse be made into a covered drainage work unless it provides capacity for all the surface water from lands and roads draining naturally towards and into it, as well as for all the waters from all the lands assessed for the drainage work. R.S.O. 1897, c. 226, s. 11; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Report on covering drains.

DISTINGUISHING ASSESSMENTS.

12. The engineer or surveyor shall, in his report, assess for benefit, outlet liability and injuring liability, and shall also in his assessment schedule insert the sum charged for each opposite the lands and roads liable therefor respectively, and in separate columns. R.S.O. 1897, c. 226, s. 12; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Engineer to distinguish assessments.

13. In fixing the sum to be assessed upon any lands or roads the engineer or surveyor may take into consideration any prior assessment on the same lands or roads for drainage work and repairs and make such allowance or deduction therefor as may seem just, and he shall, in his report, state the allowance made by him in respect thereof. R.S.O. 1897, c. 226, s. 13; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Prior assessments to be taken into consideration.

14. The engineer or surveyor aforesaid shall determine and report to the council of the municipality by which he was employed, whether the drainage work shall be constructed and maintained solely at the expense of such municipality and the lands assessed therein, or at the expense of all the municipalities interested, and the lands therein assessed, and in what proportions. R.S.O. 1897, c. 226, s. 14; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Engineer to report as to whether or not other municipalities are interested and how.

FILING REPORT.

15. As soon as the engineer or surveyor has completed his report, plans, specifications, assessments and estimates, he shall file the same with the clerk of the municipality by which he was employed. R.S.O. 1897, c. 226, s. 15; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

Engineer to file report.

Engineer or
Surveyor to
give detailed
accounts of
service, under
oath.

16.—(1) Any engineer or surveyor employed or appointed to perform any work under the provisions of this Act shall, if required so to do by the council by which he was engaged, send in his accounts to the said municipalities for his services, under oath, giving detailed information as to the number of days occupied in superintending the drainage work, the number of days engaged in laying out the work, and the number of days engaged in the office making plans and preparing his report, also the number of days on which he was engaged in making assessments and inspecting the work, showing the number of hours occupied in each day; and the said account shall also set out whether said work was performed on the works or in the office, and whether the time so occupied was the time of the engineer himself, or that of a clerk or assistant. 3 Edw. VII., c. 22, s. 4 (1); 6 Edw. VII., c. 37, s. 2.

(2) The said account upon the written request of the municipal council or of any person assessed, to be filed with the clerk of the municipality, shall be audited by the Judge free of charge.

(3) The clerk shall deliver the account to the Judge, who shall appoint a time and place at which he will proceed with the audit.

(4) The clerk shall give at least two days' notice of such audit to the engineer or surveyor and the head of the municipality, as well as to any person requiring the audit.

(5) At the time and place named in such appointment the Judge shall audit the account, and may disallow any charges which he may deem unreasonable, and shall certify thereon the amount to which, in his opinion, the engineer or surveyor is entitled, and the amount disallowed shall not be recoverable by the engineer or surveyor. 3 Edw. VII., c. 22, s. 4, (2)-(5).

NOTICE TO PERSONS ASSESSED.

Clerk to
notify parties
assessed.

17. The clerk of the municipality shall notify all parties assessed within the area described in the petition, by mailing to the owner of every parcel of land assessed therein for the drainage work, a circular or postal card upon which shall be stated the date of filing the report, the name or other general designation of the drainage work, its estimated cost, the owner's lands and their assessment, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be read and considered, which shall be not less than ten days after the mail-

ing of the last of such circulars or postal cards, and the determination of the council as to the sufficiency of notice or otherwise shall be final and conclusive. R.S.O. 1897, c. 226, s. 16.

CONSIDERATION OF REPORT.

18. The municipal council shall at the meeting mentioned in such notice, immediately after dealing with the minutes of its previous meeting, cause the report to be read by the clerk to all the ratepayers in attendance, and shall give an opportunity to any person who has signed the petition to withdraw from it by putting his withdrawal in writing, signing the same and filing it with the clerk, and shall also give those present who have not signed the petition an opportunity so to do; and should any of the roads of the municipality be assessed, the council may by resolution authorize the head or acting head of the municipality to sign the petition for the municipality, and such signature shall count as that of one person benefited in favour of the petition. R.S.O. 1897, c. 226, s. 17.

Proceedings at meeting for consideration of report.

19. The council at any time before the final passing of the by-law, if it appears that there are or may be errors in the report or assessment of the engineer or that for any other reason the report or assessment should be re-considered, may refer the report back to him for re-consideration, and the engineer may thereupon re-consider his report and assessment and shall report to the council, and the report shall have the same effect and shall be dealt with in the same manner and the proceedings thereon shall be the same as upon the original report or assessment, and it shall not be necessary that the engineer shall make any further oath or declaration. 9 Edw. VII., c. 78, s. 5.

Referring report back to engineer for re-consideration

EFFECT OF WITHDRAWAL FROM PETITION.

20. Should the petition at the close of the said meeting of the council contain the names of the majority of the persons shown as aforesaid to be owners benefited within the area described in such petition, the council may proceed to adopt the report and pass a by-law authorizing the work, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw; but if after striking out the names of the persons withdrawing, the names remaining, including the names, if any, added as provided by section 18, do not represent a sufficient number of owners within the area described to comply with the provisions of section 3, then the persons who have withdrawn from the petition shall on their respective assessments in the

Withdrawing from petition.

report, with one hundred per centum added thereto, together with the other original petitioners on their respective assessments in the report, be, *pro rata*, chargeable with and liable to the municipality for the expenses incurred by said municipality in connection with such petition and report, and the sum with which each of such owners is chargeable shall be entered upon the collector's roll for such municipality against the lands of the person liable, and shall be collected in the same manner as taxes placed on the roll for collection. R.S.O. 1897, c. 226, s. 18; 6 Edw. VII., c. 37, s. 3.

Certain by-laws heretofore passed confirmed.

21. A by-law heretofore or hereafter passed shall not be deemed invalid or illegal by reason only that the petition therefor was not sufficiently signed if such petition was duly signed by a majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners) shown by the last revised assessment roll to be the owners of the lands to be benefited in the area described in such petition. 6 Edw. VII., c. 37, s. 10.

BY-LAWS.

What by-laws may be passed by council.

22. Should the council of the municipality in which the lands and roads described in the petition lie, be of the opinion that the drainage work proposed in the petition, or a portion thereof, would be desirable, the council may pass a by-law or by-laws:—

Doing Work and Borrowing Money.

Providing for work.

1. For providing for the construction of the proposed drainage work or a portion thereof, as the case may be.

Borrowing funds.

2. For borrowing on the credit of the municipality the funds necessary for the work, or the portion to be contributed by the initiating municipality when the same is to be constructed at the expense of two or more municipalities, and for issuing the debentures of the municipality to the requisite amount, including the costs of appeal, if any, in sums of not less than \$50 each, and payable within twenty years from date (except in case of pumping and embanking drainage work, the debentures for which shall be payable within thirty years from their date), with interest at a rate of not less than 4 per centum per annum.

Assessing Lands and Roads.

Assessing lands and roads.

3. For assessing and levying, in the same manner as taxes are levied, upon the lands and roads (including roads held by joint stock companies, railway companies, private individuals,

counties or county councils) to be benefited by the work and otherwise liable for assessment under this Act in the municipality passing the by-law, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing, levying and collecting the same as other taxes are assessed, levied and collected, in proportion as nearly as may be, to their respective liability to contribute.

4. For regulating the times and manner in which the assessments shall be paid. Fixing time for paying assessment.

Determining Assessment Liability.

5. For determining what lands and roads will be benefited by or otherwise rendered liable for assessment for the drainage work, and the proportion in which the assessment should be made, subject in every case of complaint by the owner or any person interested in any lands or roads to appeal as hereinafter provided. R.S.O. 1897, c. 226, s. 19. Determining property to be benefited.

FORM OF BY-LAW.

23. The by-law shall, varying with the circumstances, be in the form or to the effect of the form given in Schedule B. to this Act. R.S.O. 1897, c. 226, s. 20. Form of by-law.

PUBLICATION OF BY-LAW.

24.—(1) Before the final passing of the by-law, it shall be published once in every week for four consecutive weeks in a newspaper published in the municipality or in the county town, or in an adjoining or neighboring municipality, and designated by resolution of the council, with a notice of the time and place of holding the Court of Revision, and also a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than ten days after the final passing thereof, serve a notice in writing upon the reeve or other head officer and the clerk of the municipality, of his intention to make application for that purpose to the Referee during the six weeks next after the final passing of the by-law. R.S.O. 1897, c. 226, s. 21 (1); 7 Edw. VII., c. 42, s. 1. Publication of by-law and notice of sitting of Court of Revision.

(2) The clerk shall furnish the publisher of the newspaper with the names and post office addresses of all persons within the municipality whose lands are assessed for the drainage work, and the publisher shall mail or cause to be mailed to each owner, to such post office address, the first two issues of the newspaper containing the by-law, and the publisher or person mailing such newspapers shall make a Newspapers to be sent to each person assessed.

statutory declaration of such mailing, and file the same with the clerk of the municipality publishing the by-law. R.S.O. 1897, c. 226, s. 21 (2).

Service in
lieu of publi-
cation.

25. The council may, at its option, instead of publishing in a newspaper, by resolution direct that a copy of the by-law, including said notice of the sitting of the Court of Revision and notice as to proceedings to quash, written or printed, or partly written and partly printed, be served upon each of the assessed owners, or their lessees or the occupant of their lands, or the agent of such owner, or be left on the lands, if occupied, with some grown up person; and if the lands are unoccupied and the owner or his agent does not reside within the municipality, the council may cause a copy of the by-law and notices to be sent by registered letter to the last known address of such owner; and a statutory declaration shall be made by the person effecting any service or mailing any such registered letter, showing the manner and date of effecting the service or mailing the registered letter; and the said declaration shall be filed by the person making the same, with the clerk of the municipality passing the by-law. R.S.O., 1897, c. 226, s. 22.

If by-law or
part thereof
not quashed
within time
limited.

26. In case no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the notice attached to the by-law, or where the notice is served, then if the application is not made or is unsuccessful in whole or in part, the by-law, or so much thereof as is not quashed, so far as the same ordains, prescribes or directs anything within the proper competence of the council to ordain, prescribe or direct, shall, notwithstanding any want of form or substance either in the by-law itself or in the time or manner of passing the same, be a valid by-law. R.S.O. 1897, c. 226, s. 23.

COURT OF REVISION.

Court of
Revision
where council
consists of
five or less
than five.

27. If the council of the municipality consists of not more than five members, such five members shall be a Court for the revision of the assessments for the drainage work. R.S.O., 1897, c. 226, s. 24.

Where coun-
cil contains
more than
five members

28. If the council consists of more than five members, it shall appoint five of its members to constitute the Court of Revision. R.S.O., 1897, c. 226, s. 25.

Oath of
member of
court.

29. Every member of the Court of Revision shall, before entering upon his duties, take and subscribe before the clerk of the municipality the following oath, or affirmation in cases where by-law affirmation is allowed:

I, _____, do solemnly swear (or affirm), that I will to the best of my judgment and ability, and without fear, favor or partiality, honestly decide the appeals to the Court of Revision from the assessments appearing in a by-law (*here set out title of by-law*), which may be brought before me for trial as a member of said Court.

R.S.O. 1897, c. 226, s. 26.

30.—(1) Three members of the Court of Revision shall constitute a quorum, and the majority of a quorum may decide all questions before the Court. Quorum.

(2) No member of the Court shall act as a member thereof while any appeal is being heard respecting any lands in which he is directly or indirectly interested, save and except roads and lands under the jurisdiction of the municipal council. R.S.O., 1897, c. 226, s. 27. Members not to sit on appeals when interested.

31.—(1) The clerk of the municipality shall be the clerk of the Court, and shall record the proceedings thereof and shall issue summonses to witnesses to attend any sittings of the Court. Clerk of Court.

(2) The summons to any witness issued by the clerk under this section may be in the following form:— Form of summons.

You are hereby required to attend and give evidence before the Court of Revision at _____ on the _____ day of _____ 19____, in the matter of the drainage work (*naming or describing work*) and of the following appeal.
Appellant (*name of*).

A. B.

Clerk of the Township of _____

(3) The fees payable to any witness on an appeal to the Court of Revision shall be according to the scale of witness fees in the Division Court. R.S.O. 1897, c. 226, s. 28. Witness fees

32. At the time appointed, the Court shall meet and try all complaints in regard to owners wrongly assessed or omitted from assessment or assessed at too high or too low an amount, and the Court may adjourn from time to time as required. R.S.O. 1897, c. 226, s. 29. Meeting and adjournments.

33. The evidence of witnesses shall be taken on oath and any member of the Court may administer an oath to any party or witness. R.S.O. 1897, c. 226, s. 30. Administering oaths and summoning witnesses.

34. If any person summoned to attend the Court of Revision as a witness fails, without good and sufficient reason, to attend (having been tendered the proper witness fees) he shall incur a penalty of \$20 to be recovered with costs, by and to the use of any person suing for the same, either by suit in the proper Division Court, or in any way in which

Witness failing to attend when summoned.

penalties incurred under any by-law of the municipality may be recovered. R.S.O. 1897, c. 226, s. 31.

Procedure for Trial of Complaints.

Who may give
notice of
appeal.

35. Any owner of land, or, where roads in the municipality are assessed, any ratepayer, complaining of overcharge in the assessment of his own land, or of any roads of the municipality, or of the undercharge of any other lands, or of any road in the municipality, or that lands or roads which should have been assessed, have been omitted from the assessment, may personally, or by his agent, give notice in writing to the clerk of the municipality, that he considers himself aggrieved for any or all the causes aforesaid. R.S.O. 1897, c. 226, s. 32.

Time for holding Court of
Revision.

36. The trial of complaints shall be had in the first instance by and before the Court of Revision of the municipality in which the lands and roads assessed are situate, and the first sitting of such Court shall be held pursuant to notice on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, or from the date of completing the services or mailing of a printed copy of the by-law, as the case may be; notice of the first sitting of the Court shall be published or served with the by-law, but the Court may adjourn from time to time as occasion may require; and all notices of appeal shall be served on the clerk of the municipality at least ten days prior to the first sitting of the Court; but the Court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as may be just. R.S.O. 1897, c. 226, s. 33.

Notice.

Form of notice of complaint.

37. If any complaint is made on the ground that any lands or roads have been assessed too low or wrongly omitted from assessment by the engineer or surveyor, the clerk shall give notice of the complaint and the time of the trial to the owner or person interested in such lands, or in the case of roads to the reeve or other head of the municipality: which notice shall be in the form following or to the like effect:

Take notice that you are required to attend before the Court of Revision at _____ on the _____ day of _____ 19____, in the matter of the following appeal:—

"Appellant (*name of*).

Subject—That you are assessed too low (*or as the case may be*) for drainage work (*naming the drainage work*).

"To J. K.

(Signed.)

X. V.
Clerk."

R.S.O. 1897, c. 226, s. 34.

38. The notice in the preceding section mentioned shall be sent by letter addressed to such person and to his post office address or to his last known address, at least seven days before the first sitting of the Court. R.S.O. 1897, c. 226, s. 35.

Serving
notice.

39. The clerk of the Court shall enter the appeals on a list in the order in which they are received by him, and the Court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. R.S.O. 1897, c. 226, s. 36.

Entry of ap
peals.

40. Such list may be in the following form:—

Form of list
of appeals.

Appeals from the assessment of the engineer on drainage work, to be heard at the Court of Revision to be held at
commencing at 10 o'clock in the forenoon on the
day of 19.

Appellant.	Omitted or wrongly assessed.	Matter complained of.
A. B.....	Self.....	Overcharged for benefit.
C. D.....	Self.....	Overcharged for outlet.
E. F.....	Self.....	Overcharge for injuring.
G. H.....	J. R.....	Undercharge for benefit
L. M.....	N. O.....	Undercharge for outlet.
P. Q.....	R. S.....	Undercharge injuring.
T. U.....	V. W.....	Wrongly omitted.
X. Y.....	Self.....	Wrongly assessed
etc.	etc.	etc.

R.S.O. 1897, c. 226, s. 37.

41. In case any lands or roads have been assessed for the construction or repair of a drainage work, and the same property is afterwards assessed by the engineer or surveyor for the construction or repair of any other drainage work, the Court of Revision or Judge may take into consideration any prior assessment for drainage work on the same property and give such effect thereto as may be just. R.S.O. 1897, c. 226, s. 38.

Court of Revi
sion may take
into consider
ation prior
assessments.

42. When the ground of complaint is, that lands or roads are assessed too high, and the evidence adduced satisfies the Court of Revision or Judge that the assessments on such lands or roads should be reduced, but no evidence is given of other lands or roads assessed too low or omitted, the Court or Judge shall adjourn the hearing of such appeal, for a time sufficient to enable the clerk to notify by postal card or letter all persons affected of the date to which such hearing is adjourned; the clerk shall so notify all persons interested, and unless they appear and show cause against the reduction of the assessment appealed against or the increase of their own, the Court or Judge may dispose of the matter of appeal in such manner as may be just, and the sum by which the

Adjournment
of Court to
notify persons
affected by
alteration of
assessment.

assessment appealed against is reduced (if any) may be distributed pro rata over the assessments of its own class or otherwise so as to do justice to all parties. R.S.O. 1897, c. 226, s. 39.

Notice of result of appeal.

43. The clerk shall by registered letter immediately after the close of the Court, notify all appellants of the result of their appeals and also of the date of the closing of the Court of Revision. R.S.O. 1897, c. 226, s. 40.

APPEALS FROM COURT OF REVISION.

Appeal to County Judge

44. An appeal from the Court of Revision shall lie to the Judge, not only against a decision of the Court of Revision, but also against the omission, neglect or refusal of said Court to hear or decide an appeal. R.S.O. 1897, c. 226, s. 41.

Time for giving notice of appeal.

45. The person appealing shall, in person or by solicitor or agent, file with the clerk of the municipality within ten days after the date of the closing of the Court of Revision, a written notice of his intention to appeal to the Judge. R.S.O. 1897, c. 226, s. 42.

Clerk to notify Judge and Judge to fix time and place for hearing appeals.

46. The clerk shall immediately after the time limited for filing appeals, forward a list of the same to the Judge, who shall then notify the clerk of the day he appoints for the hearing thereof and shall fix the place for holding such hearing at the town hall or other place of meeting of the council of the municipality from the Court of Revision of which the appeal is made, unless the Judge for the greater convenience of the parties and to save expense fixes some other place for the hearing. R.S.O. 1897, c. 226, s. 43.

Notice to persons appealed against.

47. The clerk shall thereupon give notice to all parties appealed against, in the same manner as is provided for giving notice on a complaint to the Court of Revision, but in the event of failure by the clerk to give the required notice, or to have the same given within proper time, the Judge may direct notice to be given for some subsequent day upon which he may try the appeals. R.S.O. 1897, c. 226, s. 44.

Time for giving judgment

48. At the Court so holden the Judge shall hear the appeals and may adjourn the hearing from time to time, but shall deliver judgment not later than 30 days after the hearing. R.S.O. 1897, c. 226, s. 45.

Clerk of Court.

49.—(1) The clerk of the municipality shall be the clerk of such Court, and shall record the proceedings thereof and shall have the like powers as the clerk of a Division Court as

to the issuing of subpoenas to witnesses upon the application of any party to the proceedings or upon an order of the Judge, for the attendance of any person as a witness before him.

(2) The fees to be allowed to witnesses upon an appeal to the Judge under this Act shall be those allowed to witnesses in an action in the Division Court. R.S.O. 1897, c. 226, s. 46. Witness fees

50. In all proceedings before the Judge as aforesaid, he shall possess all such powers for compelling the attendance of and for the examination on oath of all parties, and all other persons whatsoever, and for the production of books, papers and documents, and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the Division Court or County Court. R.S.O. 1897, c. 226, s. 47. Powers of Judge on appeal.

Fees and costs of Appeals.

51. The costs of any proceeding before the Court of Revision, or before the Judge as aforesaid, shall be paid or apportioned between the parties in such manner as the Court or Judge thinks fit, and the same shall be enforced when ordered by the Court of Revision by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the Judge, by execution to be issued as the Judge may direct, either from the County Court or any Division Court within the county in which the municipality is situate. R.S.O. 1897, c. 226, s. 48. Apportionment of costs—enforcing payment.

52. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other, and the same shall be taxed according to the allowance in the Division Court for such costs, and in cases where execution issues, the costs thereof as in the like Court, and of enforcing the same, may also be collected thereunder. R.S.O. 1897, c. 226, s. 49. What costs may be awarded—taxation of.

53. The Judge shall be entitled to receive from the municipality as his expenses for holding court in any place in the municipality, other than the county town, for the hearing of appeals from the Court of Revision, the sum of five dollars per day and disbursements necessarily incurred. R.S.O. 1897, c. 226, s. 50. Fees and expenses of Judge.

54. The decision of the Judge shall be final and conclusive. R.S.O. 1897, c. 226, s. 51. Decision to be final.

55. Any change in the assessment of the engineer or surveyor made by the Court of Revision or by the Judge in Clerk to alter assessments, conformably

with result of appeal therefrom shall be given effect to by the clerk of the municipality altering the assessments and other parts of the schedule to comply therewith, and the by-law shall, before the final passing thereof, be amended to carry out any changes so made by the Court of Revision or Judge. R.S.O. 1897, c. 226, s. 52.

ISSUE OF DEBENTURES.

Debentures may include principal and interest in one sum.

56. Any municipal council issuing debentures under this Act may include the interest on the debentures in the amount payable, in lieu of the interest being payable annually in respect of each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest, shall be taken to authorize the issue of debentures in accordance with this section, to the same amount with interest added. R.S.O. 1897, c. 226, s. 53.

Payment of assessment before debentures issued.

57. Any owner of lands or roads, including the municipality, assessed for the work, may pay the amount of the assessment against him or them, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionately reduced. R.S.O. 1897, c. 226, s. 54.

Informalities not to invalidate debentures.

58. No debentures issued under any by-law for the construction or maintenance of any drainage work shall be held to be invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums in the aggregate not exceeding the amount authorized by the by-law. R.S.O. 1897, c. 226, s. 55.

When debentures to be valid and binding to extent of amount advanced.

59. Any debentures issued and sold to provide any sum of money for the construction or repair of any drainage work shall be good in the hands of the purchaser, and be binding upon the corporation issuing them, to the extent of the money actually advanced on the security and interest thereon, according to the provisions of the same, provided no application to quash be made within six weeks from the final passing of the by-law authorizing the issue thereof, notwithstanding that the by-law is afterwards quashed or declared illegal in any proceedings. R.S.O. 1897, c. 226, s. 56.

WORK NOT CONTINUED INTO ANOTHER MUNICIPALITY.

Drainage work not continued into another municipality.

60.—(1) Where any drainage work is not continued into any other than the initiating municipality, any lands or roads in the initiating municipality or in any other municipality, or roads between two or more municipalities, which will, in the opinion of the engineer or surveyor, be benefited by such

work or furnished with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, may be assessed for such proportion of the cost of the work as to the engineer or surveyor seems just.

(2) A drainage work shall not be deemed to be continued into a municipality other than the initiating municipality, merely by reason of such drainage work or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. R.S.O. 1897, c. 226, s. 57.

Work on boundary road allowance.

61. Where it is necessary to construct a drainage work for the drainage of an area composed of lands or roads lying on either side of a boundary line between two municipalities, the council of either municipality may proceed upon a petition of the majority of owners of lands or roads within such area in all respects as if such area were entirely within the limits of such municipality.

Where area lies in either side of boundary road.

62. Where it is necessary to construct any drainage work or any part thereof on a road allowance used as a boundary line between two or more municipalities, the municipal council of each of the adjoining municipalities may, on the petition of the majority of owners in the area therein described and within its own limits, authorize the same to be constructed on the allowance for road between the municipalities, and may make the road as provided by section 10, and the engineer or surveyor may assess and charge the lands and roads benefited or otherwise liable to assessment in the adjoining municipality or municipalities, as well as the road allowance, with such proportion of the cost of constructing the said work as he may deem just. R.S.O. 1897, c. 226, s. 58.

Construction of drainage work on road allowance.

WORK CONTINUED INTO ANOTHER MUNICIPALITY.

63. Where it is required to continue any drainage work beyond the limits of the municipality, the engineer or surveyor employed by the council of such municipality may continue the work on or along or across any allowance for road or other boundary between any two or more municipalities, and from any such road allowance or other boundary into or through any municipality until he reaches a sufficient outlet; and in every such case he may assess and charge regardless of municipal boundaries, all lands and roads to be affected by benefit, outlet or relief, with such proportion of the cost of the work as to him may seem just; and in his report thereon he shall estimate separ-

Continuing work beyond the limits of municipality.

ately the cost of the work within each municipality and upon the road allowances or other boundaries. R.S.O. 1897, c. 226, s. 59.

Charging neighbouring municipality when work does not enter same.

64. Wherever any lands or roads in or under the jurisdiction of any adjoining or neighbouring municipality, other than the municipalities into or through which the drainage work passes, are, in the opinion of the engineer or surveyor of the initiating or other municipality doing the work or part thereof, benefited by the drainage work or provided with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, he may assess and charge the same as is provided in the next preceding section. R.S.O. 1897, c. 226, s. 60.

SETTLING ASSESSMENTS, ETC., BETWEEN MUNICIPALITIES.

Council of initiating municipality to serve other municipalities to be affected.

65. The council of any initiating municipality shall serve the head of the municipality or municipalities into or through which the work is to be continued, or whose lands or roads are assessed without the drainage work being continued into it, with a copy of the report, plans, specifications, assessments and estimates of the engineer or surveyor on the proposed work, and unless the same are appealed from as hereinafter provided, they shall be binding on each and every corporation whose council is so served, and the council of the initiating municipality shall be entitled, in the event of no appeal, to proceed with the by-law, and authorize and construct or procure the construction of the whole drainage work in accordance therewith. R.S.O. 1897, c. 226, s. 61.

Municipality served to raise and pay over its proportion of cost.

66. The council of the municipality so served, shall in the same manner as nearly as may be, and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed had petitioned as provided in section 3 of this Act, pass a by-law or bylaws to raise, and shall raise and pay over to the treasurer of the initiating municipality within four months from such service, the sum that may be named in the report as its proportion of the cost of the drainage work, or, in the event of an appeal from the report, the sum that may be determined by the Referee or Court of Appeal, and such council shall hold the Court of Revision for the adjustment of assessments upon its own ratepayers in the manner hereinbefore provided. R.S.O. 1897, c. 226, s. 62.

Appeal to referee from report of engineer.

67.—(1) The council of any municipality served as provided by section 61 may, within six weeks after such service upon its head, appeal to the Referee from the report, plans, specifications, assessments and estimates of the engineer or

surveyor, by serving the head of the council from which they received the copy, and also the head of the council of any other municipality assessed by the engineer or surveyor with a written notice of appeal, setting forth therein the reasons for such appeal.

(2) The reasons of appeal which shall be set out in such notice may be the following or any of them:— Grounds of appeal.

(a) Where the assessment against the appealing municipality exceeds \$1,000, or exceeds the estimated cost of the work in the initiating municipality,—

1. That the scheme of the drainage work as it affects the appealing municipality should be abandoned or modified, on grounds to be stated;
2. That such scheme does not provide for a sufficient outlet;
3. That the course of the drainage work, or any part thereof, should be altered;
4. That the drainage work should be carried to an outlet in the initiating municipality or elsewhere.
—R.S.O., c. 226, s. 63 (1); 7 Edw. VII., c. 42, s. 5.

(b) In any case not otherwise provided for.

1. That a petition has been received by the council of the appealing municipality, as provided by section 3 of this Act, from the majority of the owners within the area described in the petition, praying for the enlargement by the appealing municipality of any part of the drainage work lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition;
2. That such appealing municipality objects to paying over its proportion of the cost of the work to the treasurer of the initiating municipality;
3. That the initiating municipality should not be permitted to do the work within the limits of the appealing municipality;
4. That the assessment against lands and roads within

the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. R.S.O. 1897, c. 226, s. 63 (2).

Powers of
referee on
appeal.

68.—(1) Upon an appeal under the preceding section the Referee shall hear and adjudicate upon all questions raised by the notice of appeal, as they may affect any municipality assessed for the drainage work; and he may give to any municipality through or into which the proposed work will be continued, leave to enlarge the same, pursuant to petition in that behalf and according to the report, plans, specifications, assessments and estimates of an engineer appointed by the Referee for that purpose, and may make such order in the premises and as to costs already incurred, and as to costs of the appeal as may seem just.

Appeal to
Court of
Appeal.

(2) The order of the Referee upon such appeal shall be subject to appeal to the Court of Appeal as in other cases, and the decision of the Court of Appeal shall be final and conclusive as to all corporations affected thereby.

Abandon-
ment of work
by initiating
municipality.

(3) The council of the initiating municipality may, by resolution passed within thirty days after the decision of the Referee on the appeal to him or in case of an appeal therefrom after the hearing and determination thereof, abandon the proposed drainage work, subject to such terms as to costs and otherwise as to the Referee or the Court of Appeal may seem just. R.S.O. 1897, c. 226, s. 64.

ASSESSMENT FOR CUT OFF.

Benefit by
cut off.

69. Any lands or roads from which the flow of surface water is by any drainage work cut off, may be assessed and charged for same by the engineer or surveyor of the municipality doing the work; and such assessment shall be classified and scheduled as benefit. R.S.O. 1897, c. 226, s. 65.

AMENDING BY-LAW.

Amendment
of by-law
when in-
sufficient
funds pro-
vided.

70.—(1) Any by-law heretofore passed or which may be hereafter passed by the council of any municipality for the assessment upon the lands and roads liable to contribute for any drainage work and which has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage work or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the council, and further debentures

tures may be issued under the amending by-law in order to fully carry out the intention of the original by-law.

(2) Where in any such case lands and roads in another municipality are assessed for the drainage work, the council of the initiating municipality shall procure an engineer or surveyor to make an examination of the work and to report upon it with an estimate of the cost of completion for which sufficient funds have not been provided under the original by-law, and shall serve the heads of the other municipalities as in the case of the original report, plans, specifications, assessments and estimates; and the council of any municipality so served shall have the same right of appeal to the Referee as to the improper expenditure or illegal or other application of the drainage money already raised and shall be subject to the same duty as to raising and paying over its share of the money to be raised, as, in the case of the original by-law, is provided by sections 66 and 67.

When lands and roads in another municipality assessable.

(3) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage work and acted upon by the completion of the work, which provides more than sufficient funds for the completion of or proper contribution towards the work or for the redemption of the debentures authorized to be issued thereunder as they become payable shall be amended, and if lands and roads in any other municipality are assessed for the drainage work the surplus money shall be divided *pro rata* among the contributing municipalities, and every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the assessment in payment of the rates imposed by it for the work in each and every year after the completion of the work.

Amendment of by-law which provides more than sufficient funds and distribution of surplus.

(4) Any by-law passed prior to the 1st day of June, 1894, by the council of any county or union of counties for the assessment of the cost of any drainage work upon the lands and roads liable to contribute therefor which has been acted upon by the doing of the work in whole or in part and which does not provide sufficient funds to complete the drainage work, or the share of the said county or union of counties of the cost thereof, or does not provide sufficient funds for the redemption of the debentures issued under such by-law, as they become payable, may from time to time be amended by the council and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law; provided that every such drainage work shall, when fully completed, be maintained as provided in section 74 of this Act. R.S.O. 1897, c. 226, s. 66.

Amendment of by-law not providing sufficient funds.

Issuing debentures for completion of county drainage works commenced before 57 v c. 56.

Publication
of amending
by-laws.

Rev. Stat
c. 40.

71. It shall be in the discretion of the council whether an amending by-law passed under any of the provisions of the preceding section shall be published or not, and the provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of the said section, which have heretofore been or may hereafter be purchased by direction of the Lieutenant-Governor in Council. R.S.O. 1897, c. 226, s 67.

MAINTENANCE OF DRAINAGE WORK.

Maintenance
of work not
continued
into another
municipality.

72. Any drainage work constructed under a by-law of any municipality passed in pursuance of this or any former Act relating to the construction of drainage work by local assessment, and which is not continued into any other municipality, shall after the completion thereof be maintained by the initiating municipality.

- (a) If no lands or roads in any other municipality are assessed for the construction thereof, then at the expense of the lands and roads in the initiating municipality in any way assessed for such construction, according to the assessment of the engineer or surveyor in his report and assessment for the original construction of such drainage work, or,
- (b) If lands or roads in any other municipality or roads between two or more municipalities are in any way assessed for the construction of such drainage work, then at the expense of all the lands and roads in any way assessed for such construction in the municipalities affected, and in the proportion determined by such report and assessment, or in appeal therefrom by the award of arbitrators or order of the referee,—

Unless or until such assessment or proportion as the case may be, is varied or otherwise determined from time to time by the report and assessment of an engineer or surveyor for the maintenance of the drainage work, or in appeal therefrom by the order of the Referee. R.S.O. 1897, c. 226, s. 68.

Maintenance
of drainage
work passing
into another
municipality.

73. Any drainage work heretofore constructed under a by-law of a municipality, passed in pursuance of any Act relating to the construction of any drainage work by local assessment, or hereafter constructed under the provisions of this Act, which is continued into or through more than one municipality, or which is commenced by the initiating municipality on a road allowance adjoining such municipality and

is continued thence into the lands of any other municipality shall after the completion thereof be maintained by the initiating municipality from the point of commencement of the drainage work in the municipality or upon such road allowance to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, and by such last mentioned municipality and by every other municipality through or into which the drainage work is continued from the point at which the drainage work crosses the boundary line between a road allowance and lands in the municipality to an outlet in the municipality or on a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof and in the proportion determined by the engineer or surveyor in his report and assessment for the original construction or in appeal therefrom by the award of arbitrators or order of the Referee, unless and until, in the case of each municipality, such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the Referee. R.S.O. 1897, c. 226, s. 69.

74.—(1) Where a drainage work constructed before the 5th day of May, 1894, under the provisions of *The Ontario Drainage Act* or any Act in amendment thereof or under a by-law passed by a county council does not extend beyond the limits of one municipality, such drainage work shall be maintained and kept in repair by such municipality at the expense of the lands and roads in any way liable to assessment under the provisions of this Act.

Maintenance of drains constructed by government or under county by-laws.

Rev. Stat. 1887, c. 36.

(2) Any drainage work constructed before the 5th day of May, 1894, under *The Ontario Drainage Act* or any Act in amendment thereof or under a by-law passed by a county council, which continues from the municipality in which the drainage work commences into or through one or more other municipalities, shall be maintained and kept in repair by the municipality in which the drainage work commences, from the point of commencement to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, or to the outlet on such road allowance as the case may be, and by every other municipality through or into which the drainage work is continued, from the point at which the same crosses the boundary line between any road allowance and lands in the municipality and enters upon such lands to an outlet in the municipality, or on

When such drains extend into another municipality.

Rev. Stat., 1887, c. 36.

a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in an adjoining municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof, and in the proportion determined by the assessors or engineer or surveyor in their assessment roll or report as the case may be, for construction, or in appeal therefrom by the award of arbitrators or order of the Referee, unless and until in the case of each municipality such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the Referee.

(3) A drainage work which commences on a road allowance between two municipalities shall, for the purposes of this section, be deemed to commence in the municipality next adjoining that half of the road allowance upon which the drainage work is begun. R.S.O. 1897, c. 226, s. 70.

Service of by law on municipality in which lands are assessed without drain being continued into it.

75.—(1) The council of any municipality undertaking the repair of any drainage work under sections 72, 73 or 74 of this Act shall, before commencing the repairs serve upon the head of any municipality liable to contribute any portion of the cost of such repairs under the provisions of this Act, a certified copy of the by-law for undertaking the repairs, as the same is provisionally adopted, which by-law shall recite the description, extent and estimated cost of the work to be done and the amount to be contributed therefor by each municipality affected by the drainage work; and the council of any municipality so served may, within thirty days thereafter, appeal from such by-law to the Referee on the ground that the amount assessed against lands and roads in such municipality is excessive or that the work provided for in the by-law is unnecessary, or that such drainage work has never been completed through the default or neglect of the municipality whose duty it was to do the work, in the manner provided in the case of the construction of the drainage work; and the Referee on such appeal may alter, amend or confirm such by-law, or may direct that the same shall not be passed as to him may seem just. The order of the Referee upon such appeal shall be subject to appeal to the Court of Appeal for Ontario, and the decision of the Court of Appeal for Ontario shall be final and conclusive as to all corporations affected thereby. R.S.O. 1897, c. 226, s. 71 (1); 1 Edw. VII., c. 30, s. 1.

Appeal.

Council served to raise and pay over amount required.

(2) The council of every municipality served with the provisional by-law shall, within four months after such service, pass a by-law to raise, and shall, within that period raise

and pay over to the treasurer of the initiating municipality the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as settled on appeal therefrom by the order of the Referee. R.S.O. 1897, c. 226, s. 71 (2).

VARYING ASSESSMENT.

76.—(1) The council of any municipality liable for the maintenance of any drainage work may from time to time as the same requires repairs vary the proportions of assessment for maintenance, on the report and assessment of an engineer appointed by the council to examine and report on the condition of the work, or the portion thereof, as the case may be, which it is the duty of the municipality as aforesaid to maintain and on the liability to contribute of lands and roads which were not assessed for construction, and have become liable to assessment under this Act; and the engineer or surveyor may in his report upon such repairs assess lands and roads in the municipality undertaking the repairs and in any other municipality from which water flows through the drainage work into the municipality undertaking the repairs; but he shall not, except after leave given by the Referee on an application of which notice has been given to the head of every municipality affected, assess for such repairs any lands or roads lying in any municipality into which water flows through the drainage work from the municipality undertaking the repairs.

Varying assessment for maintenance.

(2) The proceedings upon such report and assessment shall be the same, as nearly as may be, as upon the report for the construction of the drainage work.

Proceedings on report of engineer.

(3) Any council served with a copy of such report and assessment may appeal from the finding of the engineer as to the proportion of the cost of the work for which the municipality is liable to the Referee, and the proceedings on such appeal shall be the same as in other cases of appeals to the Referee under this Act.

Appeal from report of engineer.

(4) Any owner of lands and any ratepayer in the municipality as to roads assessed for such repairs may appeal from such assessment in the manner provided in the case of the construction of the drainage work, and the council of every municipality affected by the report of the engineer or surveyor made under this section shall appoint a Court of Revision for the trial of any appeals in the manner hereinbefore provided. R.S.O. 1897, c. 226, s. 72.

Appeal to Court of Revision.

(5) Such assessment as so varied shall thereafter, unless or until it is further varied, form the basis of any assessment for maintenance of the drainage work affected thereby.

Basis of future assessments.

REPAIRING WITHOUT REPORT.

Deepening,
widening or
extending
without re-
port of
engineer.

77. The Council of any municipality, whose duty it is to maintain any drainage work for which only lands and roads within or under the jurisdiction of such municipality are assessed, may, after the completion of the drainage work, without the report of an engineer or surveyor upon a *pro rata* assessment on the lands and roads as last assessed for the construction or repair of the drainage work, make improvements thereto by deepening, widening or extending the same to an outlet, provided the cost of such deepening, widening and extending is not above one-fifth of the cost of the construction, and does not exceed in any case \$800; and in every case where the cost of said improvements exceeds such proportion or amount, the proceedings to be taken shall be as provided in section 78 of this Act. R.S.O. 1897, c. 226, s. 74; 1 Edw. VII., c. 30, s. 2; 8 Edw. VII., c. 5, s. 1.

REPAIRING UPON REPORT.

Repairing
upon examina-
tion and re-
port by
engineer.

78—(1) Wherever, for the better maintenance of any drainage work constructed under the provisions of this Act or any Act respecting drainage by local assessment, or to prevent damage to any lands or roads it is deemed expedient to change the course of such drainage work, or make a new outlet for the whole or any part of the work, or otherwise improve, extend, or alter the work, or to cover the whole or any part of it, the council of the municipality or of any of the municipalities whose duty it is to maintain the said drainage work, may, without the petition required by section 3 of this Act, but on the report of an engineer or surveyor appointed by them to examine and report on the same, undertake and complete the change of course, new outlet, improvement, extension, alteration or covering specified in the report, and the engineer or surveyor shall for such change of course, new outlet, improvement, extension, alteration or covering, have all the powers to assess and charge lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner, and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of this Act. R.S.O. 1897, c. 226, s. 75; 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 9.

(2) The provisions of this section shall apply to the better maintenance of a natural stream, creek or watercourse which has been artificially improved by local assessment or otherwise, and to any drainage work constructed under the provisions of *The Ontario Drainage Act* in the same manner, to the same extent, and by the same proceedings as are hereby

made applicable to the better maintenance of a drainage work wholly artificial. 6 Edw. VII., c. 37, s. 9.

(3) Such drainage work shall thereafter be maintained as hereinbefore by this Act provided, but on the basis of the new assessment, unless or until such assessment is varied or otherwise determined as provided by section 76 of this Act.


REPAIRING WORK CONSTRUCTED OUT OF GENERAL FUNDS.

79.—(1) Any drainage work heretofore or hereafter constructed out of the general funds of any municipality, or out of the general funds of two or more municipalities, or when constructed by statute labour, or partly by statute labour and partly by general funds, or out of funds raised by a local assessment under a by-law which is afterwards found to be illegal or which does not provide for repairs, need not be repaired out of such general funds, but the council of any of the contributing municipalities may, without the petition required by section 3, on the report of an engineer or surveyor, pass a by-law for maintaining the same at the expense of the lands and roads assessable for such work, and may assess the lands and roads in any way liable to assessment under this Act, for the expense thereof in the same manner, and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of this Act. R.S.O. 1897, c. 226, s. 76; 63 V., c. 38, s. 1.

Assessment for repair of work constructed out of general funds.

(2) Any such drainage work may in like manner and under the like procedure as provided in the case of repairs under this section be deepened, widened, extended, or provided with a new outlet for the whole or any part thereof. 4 Edw. VII., c. 10, s. 51.


Deepening, etc., drain constructed out of general funds.

80.  (1) Where an engineer or surveyor is directed by the Council to make an examination and report under section 76 or section 78, and upon such examination he is of opinion that the cost of repairing, changing the course of, making a new outlet for or otherwise improving, extending or altering the work so that it will be of sufficient capacity to carry off the water to a sufficient outlet will exceed the amount of injury caused or likely to be caused to low-lying lands along the course of or below the termination of the work, then in lieu of such repair, change of course, new outlet, improvement, extension or alteration, or any part of such work, he may in his estimate of the cost of the work include a sufficient sum to compensate the owners of such low-lying lands for any injuries sustained from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low-lying lands in respect of such injuries.

Estimating and assessing damage for overflow where cost of work exceeds damage.

(2) Any owner of such low-lying lands, if dissatisfied with the provision for compensation made by the report of

Appeal of owner to Referee.

the engineer, may appeal thereupon to the Referee in manner as provided by subsection 7 of section 9 of this Act, and the Referee may hear and determine such appeal in manner as provided by the said subsection. 

MANDAMUS TO COMPEL REPAIR.

Power to
compel re-
pairs by
mandamus.

81.—(1) Upon reasonable notice in writing from any person or municipality interested in a drainage work who or whose property is injuriously affected by the condition of the drainage work, the municipality whose duty it is to maintain and keep in repair the drainage work, shall be compellable by mandamus issued by the Referee or other Court of competent jurisdiction to exercise the powers and to perform the duties conferred or imposed upon it by sections 72 to 79 of this Act, or such of the said powers as to the Referee or Court may seem proper, and shall also be liable in pecuniary damages to the person or municipality who or whose property is so injuriously affected

(a) Any party to such proceedings may by leave of the Referee or of the Court of Appeal or a Judge thereof, appeal to the Court of Appeal from the decision or judgment of the Referee.

(b) A mandamus against the municipality shall not be moved for until after the lapse of thirty days from the date of the service of the notice. See R.S.O. 1897, c. 226, s. 73.

REPAIRS BY OWNERS.

Duty of
owners as to
cleaning out
and maintain-
ing banks.

82. It shall be lawful for the council of any municipality to pass a by-law or by-laws providing that it shall be the duty of the owner of every lot or part of a lot assessed for benefit to clean out the drain and keep the same free from obstructions which may hinder or impede the free flow of the water, and to remove therefrom all weeds and brushwood and to keep the banks of the drain in order to the extent and in manner or proportion and for the distance determined by the engineer in his report, and in case any such owner makes default in so doing for thirty days after notice in writing from the council of the municipality the work may be done by the said council or by any officer appointed by them for the purposes of the said drain and the cost thereof after notice of the same to the person so making default and liable therefor shall be placed on the collector's roll against the lands of such owner and shall be chargeable against the said lands and be collected in the same manner as other municipal or drainage assessments. 63 V., c. 38, s. 2 (1).

Engineer to
apportion
work of clean-
ing out drain
among
owners.

(2) The engineer or surveyor shall in his report state the portion of the said drain already or thereafter to be constructed which shall be by each owner assessed for benefit, cleaned out and kept clear and free from obstructions and in

good order as prescribed by this section. 63 V., c. 38, s. 2 (2); 3 Edw. VII., c. 22, s. 2; 6 Edw. VII., c. 37, s. 8 (2).

83.—(1) When any drainage work, heretofore or hereafter constructed, becomes obstructed by dams, low bridges, fences, washing out of private drains, or other obstructions, for which the land adjoining the drainage work or the owner or person in possession thereof is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council or by an inspector appointed by the council for the inspection and care of drains, remove such obstructions in any manner caused as aforesaid, and if not so removed within the time specified in the notice, the council or the said inspector, shall forthwith cause the same to be removed.

Persons responsible for obstruction to remove same on notice.

(2) The Council may, by by-law, appoint an inspector for the purposes mentioned in the preceding subsection, and shall in the by-law regulate the fees or other remuneration to be received by him.

Inspector of drains.

(3.) If the cost of removing such obstruction is not paid by the owner or occupant of the lands liable, to the municipality forthwith after the completion of the work, the council may pay the same, and the clerk of the municipality shall place such amount upon the collector's roll against the lands liable, with ten per cent. added thereto, and the same shall be collected like other taxes, subject, however, to an appeal to the Judge by the owner or occupant, in respect of the cost of the work. R.S.O. 1897, c. 226, s. 78.

Collection of cost of removal by municipality.

84. The council of any municipality may by by-law direct that the Inspector appointed under section 83 shall from time to time remove from any drainage work all weeds and brushwood, fallen timber or other minor obstructions for which the owner of the lands adjacent to the drainage work may not be responsible and the cost of such work shall be chargeable from time to time against the lands assessed for the maintenance of the drainage work and in the proportion fixed by the by-law authorizing the drainage work, but it shall not be necessary to assess and levy the amount so charged more than once in every five years after the passing of such first mentioned by-law, unless in the meantime the total expense incurred shall exceed the sum of \$100. 7 Edw. VII., c. 42, s. 1.

Minor repairs.

CUTTING EMBANKMENTS, BANKS, ETC.

85. Any person who obstructs, fills up or injures any drainage work, or destroys, cuts, or injures any embankment of any pumping works, or of any other drainage work, in addition to his liability in civil damages therefor, upon the

Penalty for injury to embankments, etc.

complaint of the council of the municipality or of any person affected by such obstructing, filling up, destroying, cutting, or injuring, upon summary conviction thereof, shall incur a penalty of not less than \$5 nor more than \$100 and shall also be liable to imprisonment for any term not exceeding six months, and in default of payment of such penalty shall further be liable to imprisonment for any term not exceeding three months. R.S.O. 1897, c. 226, s. 79.

REMOVING ARTIFICIAL OBSTRUCTIONS.

Removal of
dams, etc.,
on construc-
tion of work.

86. Wherever, in the construction of any drainage work any dam or other artificial obstruction exists in the course of or below the work, and is situate wholly within the municipality doing the work, the council shall have power, with the consent of the owner thereof and of the council or councils of the other municipalities liable to assessment for the cost of the work, and upon payment of such purchase money as may be mutually agreed upon, or in default of such consent or agreement be determined by the Referee, to remove the same wholly or in part; and any amount so paid or payable as purchase money shall be deemed part of the cost of construction and be provided for in the assessment by the engineer or surveyor. R.S.O. 1897, c. 226, s. 80; 4 Edw. VII., c. 10, s. 52.

OPERATING PUMPING WORKS.

Appointment
of commis-
sioners for
pumping
works, etc.

87.—(1) For the better maintenance of drainage work by embanking, pumping or other mechanical operations, the council of the municipality initiating the work may pass by-laws appointing a commissioner or commissioners who shall have power to enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings, and purchase and repairs of machinery, and to do all other things necessary for successfully operating such drainage work, as may be set forth in the by-law appointing them; and the council may pass by-laws for defraying the annual cost of maintaining and operating the work by assessment upon the lands and roads in any way liable to assessment under the provisions of this Act. R.S.O. 1897, c. 226, s. 81 (1); 8 Edw. VII., c. 52, s. 3. *Amended.*

Commission-
ers of pump-
ing works.

(2) Upon the petition of two-thirds of the resident owners in the drainage territory, the council of the municipality may pass by-laws empowering the commissioner or commissioners appointed under this section to use all buildings, machinery and equipments belonging to and in connection with any drainage pumping works, and to operate the same for such purposes and upon such terms as may be set forth in such by-laws but so that the profits or benefits of such user shall accrue to the owners. R.S.O. 1897, c. 226, s. 81, (2).

88. Upon the petition of two-thirds of the persons interested in any drainage work constructed by embanking, pumping or other mechanical operations, and not constructed by the municipality, the council of the municipality in which the work is situate may assume the work and maintain and operate the same, in the same manner and to the same extent as if the said drainage work had been constructed under the provisions of this Act, but at the cost of the lands and roads liable to be assessed for the work. R.S.O. 1897, c. 226, s. 82.

Assuming pumping works, etc., constructed by private persons.

DEBENTURES FOR MAINTENANCE.

89. —(1) Where the maintenance of any drainage work is so expensive that the municipal council liable therefor deems it inexpedient to levy the cost thereof in one year, the said council may pass a by-law to borrow, upon the debentures of the municipality, the amount necessary for the work, or its proportion thereof, and shall assess, and levy upon the lands and roads liable therefor a special rate sufficient for the payment of the debentures.

Powers to issue debentures for cost of maintenance.

(2) Where such debentures are issued for work done under the provisions of section 78 of this Act, such debentures shall be payable within twenty years from the date thereof, and where such debentures are issued for the cost of repairs undertaken under any other provision such debentures shall be payable within seven years from the date thereof.

(3) The provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under any by-laws passed under this section, which has before its final passing been published or of which the ratepayers have been notified in manner provided by this Act or which has, after its passing been promulgated as required by section 375 of *The Consolidated Municipal Act, 1903*. R.S.O. 1897, c. 226, s. 83; 63 V., c. 38, s. 3.

3 Edw. VII. c. 19.

PAYING BACK ADVANCES.

90. Any moneys which have been or may hereafter be advanced by the council of any municipality out of its general funds for the purpose of any drainage work, in anticipation of the levies and collections therefor, shall be repaid into the general funds of the municipality as soon as the moneys first derived from the assessment are collected. R.S.O. 1897, c. 226, s. 77.

Repayment of advances from general funds on receipt of assessments.

MAKING AWARD DRAINS MUNICIPAL.

91. Upon a petition presented to the council of any municipality as provided for in section 3 of this Act, having within the area described therein any drain constructed under *The Ditches and Watercourses Act* or any other Act providing for

Power to bring drains constructed under Rev. Stat. c. 285, within this Act.

assessment in work, signed by a majority of the owners interested in such ditch or drain, the said council may assume the same and proceed thereon in the same manner and to the same extent as for the construction of any drainage work under the provisions of this Act, and the passing of the by-law under the provisions of this Act shall in every such case be a bar to any further proceedings upon the award or under the provisions of the Act upon which such award is based. R.S.O. 1897, c. 226, s. 84.

COST OF REFERENCE AND INCIDENTAL EXPENSES.

Certain expenses to be deemed part of the cost of the work.

92. Except where otherwise provided by this Act, the cost of any reference had in connection with the construction or maintenance of any drainage work, the cost of the publication or service of by-laws, and all other expenses incidental to the construction or maintenance of the work and the passing of the by-laws, shall be deemed part of the cost of such work, and shall be included in the amount to be raised by local rate on all lands and roads liable therefor. R.S.O. 1897, c. 226, s. 86.

LANDLORD AND TENANT.

Tenant's covenant to pay taxes—when to include drainage assessments.

93. Any agreement on the part of any tenant to pay the rates or taxes in respect of the demised lands, shall not include the charges and assessments for any drainage work unless such agreement in express terms so provides; but in cases of contracts to purchase or of leases giving the lessee an option to purchase, the said charges and assessments for drainage work in connection with which proceedings were commenced under this Act, after the date of the contract or lease, and which have been already paid by the owner, shall be added to the price and shall be paid by the purchaser or the lessee in case he exercises his option to purchase; but the amount still unpaid on the cost of the work or repair, and charged against the lands shall be borne by the purchaser unless otherwise provided by the conveyance or agreement. R.S.O. 1897, c. 226, s. 87.

DRAINAGE REFEREES.

Referees, appointment of.

94.—(1) The Lieutenant-Governor in Council from time to time may appoint two referees for the purpose of the drainage laws; that is to say, *The Ontario Drainage Act*, the provisions of this Act, and other Acts, and parts of Acts on the same subject.

To be officers of High Court.

(2) Such referees shall be deemed to be and shall be officers of the High Court.

Qualification.

(3) They shall be barristers of at least ten years' standing at the Bar of Ontario.

(4) They shall hold office by the same tenure as official referees under *The Judicature Act*. Tenure of office.

(5) They shall not practise as solicitors or barristers in any matter arising under this Act, nor act as legal agents or advisers in any such matter. Not to practise.

(6) They shall each be paid a salary of such amount as may be appropriated by the Legislature for the purpose (not exceeding \$3,500 a year) to be paid monthly, together with their reasonable travelling expenses. Salary.

(7) One of the said Referees shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in the Counties of Stormont, Dundas and Glengarry, Prescott and Russell, Leeds and Grenville, Frontenac, Lennox and Addington, Prince Edward, Hastings, Northumberland and Durham, Victoria, Haliburton, Peterborough, Renfrew, Lanark, Carleton, and the other Referee shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in all the other counties and districts in the Province of Ontario. Jurisdiction.

(8) Where either of the Referees is absent or owing to illness or other cause is unable to act, or where the office of either Referee is vacant, the remaining Referee shall act and shall have jurisdiction as Referee over the whole Province until the vacancy is filled or the other Referee is able to act. Absence or illness.
R.S.O. 1897, c. 226, s. 88; 6 Edw. VII., c. 37, s. 6.

95.—(1) The Referee shall have the powers of an Official Referee under *The Judicature Act* and *The Arbitration Act* and of arbitrators under any former enactments relating to drainage works, R.S.O. 1897, c. 226, s. 89 (1). Referee to have powers of an official referee under Rev. Stat. cc. 51 and 62.

(2) In respect to all applications and proceedings before him or which may come before him under the provisions of this Act, or any former Act relating to drainage works, he shall have the powers of a Judge of the High Court of Justice, including the production of books and papers, the amendment of notices of appeal and of notices of claims for compensation or damages, and of all other notices and proceedings; he may correct errors, or supply omissions, fix the time and place of hearing, appoint the time for his inspection, summon to his aid engineers, surveyors or other experts, and regulate and direct all matters incident to the hearing, trial and decision of the matters before him so as to do complete justice between the parties; he may also grant an injunction or a mandamus in any matter before him under this Act. Powers as to compelling production, amending notices, etc.
Granting a mandamus or injunction.
R.S.O. 1897, c. 226, s. 89 (2); 1 Edw. VII., c. 30, s. 3.

Power to determine validity of proceedings and amend report.

(3) The Referee shall have power, subject to appeal as hereinafter provided, to determine the validity of all petitions, resolutions, reports, provisional or other by-laws, whether objections thereto have been stated as grounds of appeal to him or not, and to amend and correct any provisional by-law in question; and, with the engineers's consent and upon evidence given, to amend the report in such manner as may be deemed just, and upon such terms as may be deemed proper for the protection of all parties interested, and, if necessary by reason of such amendments, to change the gross amount of any assessment made against any municipality, but in no case shall he assume the duties conferred by this Act upon the Court of Revision or a County Judge. R.S.O. 1897, c. 226, s. 89 (3).

Interlocutory applications, no appeal from referee thereon.

96. All interlocutory applications for any of the purposes mentioned in subsection 2 of the last preceding section shall be made to the Referee and his order thereon shall be final and conclusive. R.S.O. 1897, c. 226, s. 90.

APPEALS FROM ASSESSMENT.

Notice of appeal from assessment to be filed.

97. A copy of the notice of appeal by any municipality from the report, plans, specifications, assessments, and estimates of an engineer or surveyor or from a provisionally adopted by-law, with an affidavit of service thereof shall, within the time limited by this Act for the service of the same, be filed in the office of the Clerk of the County Court of the county or union of counties in which the drainage work commenced.- R.S.O. 1897, c. 226, s. 91.

Amendment of by-law to carry out decision of referee.

98. The by-law of the initiating municipality and of any other municipalities interested shall be amended so as to incorporate and carry into effect the decision or report of the Referee or such decision or report as varied on appeal, as the case may be. R.S.O. 1897, c. 226, s. 92.

Application to set aside drainage by-law, report, petition or resolution to be made by Referee.

99.—(1) Subject to the provisions of section 100 of this Act, applications to set aside, declare void or otherwise directly or indirectly to attack the validity of any petition, report of an Engineer, resolution of a Council, by-law provisionally adopted or finally passed relating to a drainage work as hereinbefore defined as well as all proceedings to determine claims and disputes arising between municipalities or between a company and a municipality or between individuals and a municipality, company or individual in respect of anything done or required to be done under the provisions of this Act or consequent thereon or by reason of negligence or for a mandamus or injunction shall be made to and shall be heard and tried by the Referee who shall hear and de-

termine the same and give his decision and his reasons therefor.

(2) Proceedings for the determination of claims and disputes and for the recovery of damages by reason of negligence or by way of compensation or otherwise or for a mandamus or an injunction under this section shall be instituted by serving 10 clear days' notice setting forth the grounds of the claim for damages or compensation or a mandamus or an injunction as the case may be upon all persons concerned. Proceedings to be instituted by notice.

(3) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the County Court of the county in which the land is situate and the notice shall be filed and served within two years from the time the cause of complaint arose. Notice to be filed in County Court.

(4) All affidavits intended to be used in support of a motion shall be filed with the Clerk of the County Court not less than five days before the return day of the motion. Affidavits to be filed 10 days before motion.

(5) Subject to the provisions of section 100 of this Act, no application or proceeding within the meaning of this section shall be made or instituted otherwise than as herein provided. Application not to be made otherwise.

(6) Where the amount awarded upon a claim for damages arising out of a drainage work does not exceed \$60, the costs allowed to the plaintiff shall be on the Division Court scale so far as the same is applicable. 9 Edw. VII., c. 78, s. 1. Costs on claims not exceeding \$60 on Division Court scale.

100.—(1) Where an action is brought or is pending and the Court in which the same is brought or is pending or a Judge thereof is of opinion that the relief sought therein is properly the subject of a proceeding under this Act or that the same may be more conveniently tried before and disposed of by the Referee, the Court or Judge may, on the application of either party, at any stage of the action make an order transferring it to the Referee on such terms as may be deemed just, and the Referee shall thereafter give directions for the continuance of the action before him, which shall be as far as practicable in conformity with the provisions of this Act as to proceedings by a notice of motion, and subject to the order, all costs shall be in his discretion. Actions may be transferred to Referee.

(2) This section shall apply only where the action is brought within the period limited by this Act for taking proceedings on notice. 9 Edw. VII., c. 78, s. 2. Application of section.

Decision of
Court of
Appeal to be
final.

101. The decision of the referee in all applications and proceedings under this Act, not otherwise provided for as being final and conclusive between the parties, shall be subject to appeal to the Court of Appeal for Ontario and its decision thereon shall be final, conclusive and binding upon all parties to the application or other proceeding. 1 Edw. VII., c. 30, s. 5.

Assessing
damages and
costs payable
by municipi-
palities.

102.—(1) Save as provided by subsections 2. 3 and 4 of this section all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied *pro rata* upon the lands and roads in any way assessed for the drainage work according to the assessment thereof for construction or maintenance, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act.

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers in the construction of the drainage work or in carrying out the provisions of this Act, the Referee or Court may direct that the whole or any part of such damages and costs shall be borne by such municipality and be payable out of the general funds thereof.

(3) Where in any such proceedings by or against a municipality an amicable settlement is arrived at and carried out by the advice of counsel, the damages and costs payable under the terms of such settlement by any municipality shall be borne and paid as directed by the Referee on application to him on behalf of the council of the municipality or any owner of lands assessed for the construction or maintenance of the drainage work, and in making such direction the Referee shall have regard to the provisions of the next preceding subsection. R.S.O. 1897, c. 226, s. 95.

(4) Where in the opinion of the Referee damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage work and it is necessary in order to prevent a continuance of such damage to improve, extend or alter the said drainage work, the Referee may by his report permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement, extension or alteration, and in such case the engineer shall include the amount of such damages and costs in his estimate of such cost and the same shall thereafter be assessed, levied and collected as if it were part of the actual cost of the drainage work. Any report heretofore made by the Referee and containing such permis-

sion shall be deemed to have been made with the jurisdiction conferred by this subsection as if hereafter made.

PROCEEDING WITH REFERENCE.

103.—(1) The Referee at any time after an appeal or reference is made to him as hereinbefore provided, may give Referee to direct procedure. directions for the filing or serving of objections and defences to such appeal or reference and for the production of documents and otherwise, and may give an appointment to either or any party to the appeal or reference, to proceed therewith at such place and time and in such manner as to him may seem proper, but unless the parties otherwise consent the hearing shall be in the county or one of the counties in which the drainage work or proposed drainage work is situate or in which lands are assessed.

(2) The Clerk of the County Court shall be the Clerk of Clerk of Court. the Court of the Referee, and shall take charge of and file all the exhibits and shall be entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the County Court.

(3) The Clerk shall be entitled to such fees as the Referee may direct, not exceeding \$4 per day for his attendance at the court and such fees shall be included in the costs and shall be borne and paid as the Referee may direct.

(4) The fees payable to the Clerk shall be paid in money and not in stamps.

(5) In the absence of the Clerk of the County Court the Referee may appoint the Referee's Referee's clerk. clerk or some other person to act as Clerk for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed shall while so acting have the same power and be entitled to the same fees as the Clerk of the County Court would have and be entitled to if personally present.

(6) Subpoenas for the attendance of witnesses at Subpoenas. the hearing, tested in the name of the Referee, may be issued by the Clerk of the County Court of the county in which the case is to be heard. R.S.O. 1897, c. 226, s. 96.

104. When the Referee proceeds partly on view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to allow the Court of Appeal to form a judgment of the weight which should be given thereto; and he shall state as part of his When referee proceeds on view or special knowledge.

reasons the effect by him given to such statement. R.S.O. 1897, c. 226, s. 97.

Shorthand
writer.

105. Two or more shorthand writers may from time to time be appointed by the Lieutenant-Governor in Council to report hearings or trials before the Referee, and every such officer shall be deemed to be an officer of the High Court, and shall be paid in the same manner as shorthand writers in the High Court are paid and the several sections of *The Judicature Act* respecting shorthand writers shall apply to any shorthand writer appointed under this Act. R.S.O. 1897, c. 226, s. 98; 6 Edw. VII., c. 37, s. 7.

Rev. Stat., c.
51.

Clerk of
Court to for-
ward notice of
filing report,
etc., to
parties.

106. The decision or report of the Referee with the evidence, exhibits, and statement (if any) of inspection or of technical knowledge and the reason for his decision shall be filed in the office of the Clerk of the County Court, and notice of the filing shall forthwith be given by the Clerk, by post or otherwise, to the solicitors of the parties appearing by solicitor, and to other parties not represented by a solicitor, and also to the clerk of the municipality or other corporation. R.S.O. 1897, c. 226, s. 99.

Report to be
sent to clerk
of each muni-
cipality inter-
ested.

107. A copy of the decision or report certified by the Referee or Clerk aforesaid, shall be sent or delivered to the clerk of every municipality interested in the drainage work in question upon receipt of the sum chargeable therefor, as hereinbefore provided, and shall be kept on file as a public document of the municipality. R.S.O. 1897, c. 226, s. 100.

Decision to be
in form of
order for
judgment.

108. The decision or report of the Referee shall be in the form of an order for judgment and may be delivered as decisions by the Judges of the Supreme Court are, and need not be in the form of a report; and unless appealed from to the Court of Appeal, as herein provided, judgment may be entered in the proper office without any further or other application or order. R.S.O. 1897, c. 226, s. 101.

Use of court
house.

109. When an appointment is given by the Referee for the hearing of any matter under this Act in any city, town or place wherein a court house is situated, he shall have in all respects the same authority as a Judge of the High Court in regard to the use of the court house, or other place or apartments set apart in the county for the administration of justice. R.S.O. 1897, c. 226, s. 102.

Sheriffs, etc.,
to assist
referee—fees
therefor.

110. Sheriffs, deputy-sheriffs, constables and other peace officers shall aid, assist and obey the Referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the said Referee,

be paid by the county or counties interested, like fees as for similar services at the sittings of the High Court for the trial of causes. R.S.O. 1897, c. 226, s. 103.

111. Except as in this Act otherwise provided and subject Rules and practice. to the provisions thereof, the rules and practice for the time being of the High Court of Justice shall be followed so far as the same are applicable. R.S.O. 1897, c. 226, s. 104.

112. In cases brought before the Referee in pursuance of the powers conferred by this Act, or by any other Act, the evidence taken before him need not be filed, and need only be written out at length by the shorthand writer, if required by the Referee or by any parties to the reference; and if required by any of the parties to the reference, copies shall be furnished upon such terms as may be fixed by the Lieutenant-Governor in Council. Evidence taken before Referee need not be filed or written out. R.S.O. 1897, c. 226, s. 105.

113. Costs shall be taxed by the Referee; or he may direct the taxation thereof by the Clerk of the County Court with whom the papers are filed, or by any taxing officer of the High Court. Taxation of costs. R.S.O. 1897, c. 226, s. 106.

114. Fees shall be paid in stamps or otherwise in the same Fees on trial. manner as in the case of other proceedings in the said courts respectively, until other provision is made in that behalf by competent authority. R.S.O. 1897, c. 226, s. 107.

115. To provide a fund for or towards the payment of the Referee's salary and other expenses, there shall be further payable a sum which shall be determined by the Referee and mentioned in his decision or report or in a subsequent report; the said sum not to exceed the rate of four dollars a day for every full day the trial occupies, and shall be paid in stamps by one or the other of the parties, or distributed between or among the parties as the Referee directs. Fees on trial. R.S.O. 1897, c. 226, s. 108.

116. The decision or report of the Referee shall not be given out until stamped with the necessary stamps. Reports to be stamped. R.S.O. 1897, c. 226, s. 109.

117.—(1) The decision or report of the Referee, on any appeal or reference under this Act, or in any action or proceeding transferred or referred to him under this Act shall be binding and conclusive upon all parties thereto, unless appealed from to the Court of Appeal within one month after the filing thereof, or within such further time as the Referee or the Court of Appeal or a Judge thereof may allow, save as otherwise provided by this Act in any case where it is declared that the decision of the Referee shall be final. Time for appealing to Court of Appeal. Rev. Stat., c. 62.

(2) The decision or report may be appealed against to the Court of Appeal in the same manner as from a decision of a Judge of the High Court sitting in Court. R.S.O. 1897, c. 226, s. 110.

RULES AND TARIFF OF COSTS.

Judges of
Supreme
Court may
make rules.

Rev. Stat.
c. 51.

118. The Judges of the Supreme Court shall have the same authority to make general rules with respect to proceedings before the Referee and appeals from him as they have with respect to proceedings under *The Judicature Act*; and sections 122 to 125 of *The Judicature Act* shall apply thereto. R.S.O. 1897, c. 226, s. 111.

Referee may
make rules.

119.—(1) Subject to any such general rules the Referee shall have power, with the approval of the Lieutenant-Governor in Council, to frame rules regulating the practice and procedure to be followed in all proceedings before him under this Act, and also to frame tariffs of fees in cases not otherwise provided for.

(2) Such rules and tariffs, whether made by the Judges or the Referee, shall be published in the *Ontario Gazette* and shall thereupon have the force of law; and the same shall be laid before the Legislative Assembly at its next Session after promulgation thereof. R.S.O. 1897, c. 226, s. 112.

Tariff of
County Court
adopted until
rules made.

120. Until other provisions are made under the last two preceding sections the tariff of the County Court shall be the tariff of costs and of fees and disbursements for solicitors and officers under this Act and the Referee shall have the power to fix counsel fees. R.S.O. 1897, c. 226, s. 113.

Repeal.

121. Chapter 226 of The Revised Statutes of Ontario and all amendments thereto except the proviso to Section 10 of the Act passed in the 6th year of His Majesty's reign and chaptered 37 are repealed.

SCHEDULE A.

FORM OF PETITION FOR DRAINAGE WORK.

(Section 4).

The petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll of the township of _____ in the county of _____ to be the owners of the lands to be benefited within said township, and hereinafter described, sheweth as follows:

Your petitioners request that the area of land within the said township and being described as follows: that is to say, lots numbered 1 to 10 inclusive in the first concession; lots lettered A to H inclusive in the second concession; north-west halves of lots

Therefore the said municipal council of the said of
 , pursuant to the provisions of *The Municipal Drainage*
Act, enacts as follows:—

1st. The said report, plans, specifications, assessments and estimates are hereby adopted, and the drainage work as therein indicated and set forth shall be made and constructed in accordance therewith.

2nd. The reeve (or mayor) of the said may borrow on the credit of the corporation of the said of the sum of dollars, being the funds necessary for the work *not otherwise provided for* (or being said municipality's proportion of the funds necessary for the work), and may issue debentures of the corporation to that amount in sums of not less than \$50 each, and payable within years from the date of the said debentures with interest at the rate of per centum per annum, that is to say: *(insert the manner of payment annually and whether with or without coupons and if the latter, omit the last clause of this paragraph)* such debentures to be payable at , and to have attached to them coupons for the payment of interest.

3rd. For paying the sum of (\$410), the amount charged against the said lands and roads for benefit, and the sum of (\$108), the amount charged against said lands and roads for outlet liability, and the sum of (\$135), the amount charged against said lands and roads for injuring liability, apart from lands and roads belonging to or controlled by the municipality, and for covering interest thereon for years, at the rate of per centum per annum, the following total special rates over and above all other rates shall be assessed, levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the undermentioned lots and parts of lots and roads, and the amount of the said total special rates and interest against each lot or part of lot respectively shall be divided into equal parts, and one such part shall be assessed, levied and collected as aforesaid, in each year, for years, after the final passing of this by-law, during which the said debentures have to run.

Concession.	Lot or part of lot.	Acres.	Value of benefit.	Value of outlet liability.	Value of injuring liability.	To cover interest for years at per cent.	Total special rate.	Annual assessment during each year for years.
			\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.
10	5	200	100 00	23 00				
10	S. 6	100	50 00	10 00				
10	N. 6	50	30 00	5 00				
10	S. W. 8	100	80 00	13 00				
10	S. W. & N. 9	150	150 00	20 00				
10	4	200	.....	24 00				
10	S. 3	100	.....	13 00				
9	W. 5	100	.....		40 00			
9	N. 6	50	.....		25 00			
9	N. E. & N. 7	150	.....		70 00			
Total for benefit.			410 00	108 00	135 00			
" outlet.....			108 00					
" injuring.....			135 00					
Roads (and lands) of municipality.....			100 00					
Total.....			\$753 00					

4th. For paying the sum of (\$100), the amount assessed against the said roads and lands of the municipality, and for covering interest thereon for _____ years at the rate of _____ per centum per annum, a special rate on the dollar, sufficient to produce the required yearly amount therefor shall, over and above all other rates, be levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the whole rateable property in the said _____ of _____ in each year for _____ years, after the final passing of this by-law, during which the said debentures have to run.

5th. This by-law shall be published once in every week for four consecutive weeks in the _____, newspaper, published in the town of _____ (or printed and served or mailed as described), and shall come into force upon and after the final passing thereof, and may be cited as the "_____ By-law."

R.S.O. 1897, c. 37, Sched. B; 6 Edw. VII., c. 37, s. 4.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to revise and consolidate
The Municipal Drainage Laws.

First Reading 23rd day of February, 1910
Second Reading 3rd day of March, 1910

*(Reprinted as amended by Committee of
the Whole House.)*

MR. HANNA

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty

BILL

An Act respecting the Manufacture and Sale of Bread.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Bread Sales Act.*" Short title.
2. In this Act,— Interpretation.

"Inspector" shall mean an inspector appointed by a municipal council under the authority of this Act. "Inspector."

"Bake-shop" shall have the same meaning as in *The Ontario Shops Regulation Act.* "Bake-shop."
Rev. Stat.
c. 257.
3. Save as otherwise provided by this Act no person shall make bread for sale or sell or offer for sale bread except in loaves weighing twenty ounces and forty ounces avoirdupois. Weight of bread.
4. Brown bread or whole wheat bread shall be made and sold in loaves weighing sixteen ounces avoirdupois. Brown bread.
5. Rolls may be made and sold in any weight not exceeding twelve ounces avoirdupois each. Rolls.
6. Bread may be made and sold under contract for the use of the purchaser and not for sale by him as loaves, of any weight provided for in the contract. Contracts for supply of bread.
7. Every person making bread for sale shall keep in a conspicuous and convenient place in the bake-shop scales and weights suitable for weighing bread, and shall weigh the bread offered for sale by him at the request of any person desiring to purchase the same, and the Inspector may use Scales and weights in bake-shop.

such scales at any time for the purpose of weighing bread found by him in the bake-shop.

Penalties.

8. Every person who makes or sells or offers for sale bread in contravention of the proceeding provisions of this Act, or who neglects to comply with the provisions of section 7 of this Act shall be liable upon summary conviction to a penalty not exceeding \$5

Penalty for using deleterious matter.

9.—(1) Every person who uses an adulterant or deleterious material in the making of bread for sale or who knowingly sells or offers for sale any bread containing adulterant or deleterious material shall incur a penalty not exceeding \$25, and shall, upon summary conviction, be liable as part of the costs of conviction, to pay any expenses incurred in procuring an analysis of such bread.

(2) The keeping in any bake-shop of any adulterant or deleterious material which may be used in the making of bread shall be *prima facie* evidence of an offence against subsection 1 of this section.

Appointment of inspector.

10. The council of every city shall, and the council of every township, town or village may, appoint an inspector for the purpose of enforcing the provisions of this Act.

Weighing of bread by inspector.

11. The Inspector may at any time enter any bake-shop and weigh any bread found therein and inspect or test such bread for the purpose of discovering if any adulterant or deleterious material, has been used in the making thereof, and may seize and remove such bread which is lighter in weight than is prescribed by this Act or which contains any adulterant or deleterious material, and may dispose of any bread so seized or removed as the council may by by-law direct.

Power and duties of inspector.
Rev. Stat. c. 257.
Rev. Stat. c. 256.

12. The Inspector shall possess the like powers with respect to bake-shops as the inspector appointed under the provisions of *The Ontario Shops Regulation Act* or *The Ontario Factories Act*, and it shall be the duty of the Inspector to see that the provisions of this Act and of *The Ontario Shops Regulation Act* are complied with, and wherever the term "The Inspector" is used in the said Act with regard to bake-shops it shall be deemed to include an inspector appointed under this Act.

Bake-shop not to be in basement.

13.—(1) After the passage of this Act no bake-shop shall be established in any basement or in any part of a building which is below the level of the street or road upon which the bake-shop is situate.

(2) Every person who contravenes the provisions of sub-Penalty.
 section 1 of this section shall incur the penalties provided
 by section 41 of *The Ontario Shops Regulation Act*.

14. Where a loaf weighing less than the prescribed weight
 is found in a bake-shop the person making or offering for sale
 or selling the same shall not be liable to the penalties pre-
 scribed by this Act for making or offering for sale or selling
 bread of short weight unless at least ten loaves are found in
 the bake-shop at the same time, which in the aggregate are
 below the weight required by this Act, but any loaf found to
 be of short weight shall nevertheless be liable to seizure as
 hereinbefore provided.

When person
selling or
making light
weight bread
not liable to
penalties.

15. The certificate of the Secretary or Analyst or Assist-
 ant Analyst of the Provincial Board of Health in writing,
 purporting to be signed by him shall be *prima facie* evidence
 of the facts therein set forth and shall be receivable without
 proof of the signature or of the official character of the person
 who appears to have signed the same in any prosecution under
 this Act.

Certificate
of analyst.

16. The Act passed in the 8th year of His Majesty's
 reign, chaptered 56, is repealed.

8 Edw. VII.,
c. 56, re-
pealed.

17. This Act shall come into force on the first day of
 July, 1910.

Commence-
ment of
Act.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting the Manufacture and
Sale of Bread.

First Reading 24th day of February, 1910

(*Private Bill.*)

Mr. McNAUGHT

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act respecting the Manufacture and Sale of Bread.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Bread Sales Act*.

Short title.

2. In this Act "bake-shop" shall mean any building, premises, workshop, structure, room or place in which bread is made for sale or sold.

Interpretation.
"Bakeshop."

3.—(1) Except as provided in subsection 2, no person shall make bread for sale or sell or offer for sale bread except in loaves weighing twenty-four ounces or forty-eight ounces avoirdupois.

Weight of bread.

(2) Small-bread may be made for sale and sold in any weight not exceeding twelve ounces avoirdupois.

4. Every person making bread for sale shall keep in a conspicuous and convenient place in the bake-shop scales and weights suitable for weighing bread and shall weigh the bread offered for sale by him at the request of any person desiring to purchase the same, and the Inspector may use such scales at any time for the purpose of weighing bread found by him in the bake-shop.

Scales and weights in bake-shop.

5. Every person who makes for sale or sells or offers for sale bread in contravention of the preceding sections of this Act, or who neglects to comply with the provisions of section 4 of this Act shall, upon summary conviction, incur a penalty not exceeding \$5.

Penalty for making bread, etc., contrary to provisions of Act.

Penalty
for using
deleterious
material.

6.—(1) Every person who uses an adulterant or deleterious material in the making of bread for sale or who knowingly sells or offers for sale any bread containing adulterant or deleterious material, shall, upon summary conviction, incur a penalty not exceeding \$25, and shall also be liable as part of the costs of conviction to pay any expenses incurred in procuring an analysis of such bread.

(2) The keeping in any place where bread is made for sale of any adulterant or deleterious material, which may be used in the making of bread, shall be *prima facie* evidence of an offence against subsection 1 of this section.

Penalty for
interfering
with
inspector.

7. Every person who refuses the inspector admittance to his bake-shop or who interferes with the inspector in the performance of his duties shall, upon summary conviction, incur a penalty not exceeding \$10.

Appointment
of inspector.

8. The council of every city, town and village, shall, and the council of every township may, appoint an inspector for the purpose of enforcing the provisions of this Act.

Weighing of
bread by
inspector.

9. The inspector may at any time prior to delivery to a purchaser weigh any bread made for sale and may take away any bread and cause the same to be tested for the purpose of discovering if any adulterant or deleterious material has been used in the making thereof, and may seize and remove any bread which does not comply with the provisions of this Act, and may dispose of any bread so seized or removed as the council may by by-law direct.

Duties of
inspector.

10. It shall be the duty of the inspector to see that the provisions of this Act are complied with, and he shall make a report quarterly to the council showing the prosecutions taken and the quantity of bread seized or tested under this Act.

When person
selling or
making light
weight bread
not liable to
penalties.

11. Where a loaf weighing less than the prescribed weight is found the person making or offering for sale or selling the same shall not be liable to the penalties prescribed by this Act for making or offering for sale or selling bread of short weight unless at least ten loaves are found at the same time, which in the aggregate are below the weight required by this Act, but any loaf found to be of short weight shall nevertheless be liable to seizure as hereinbefore provided.

Certificate
of analyst.

12. The certificate of the Analyst or Assistant Analyst of the Provincial Board of Health in writing, stating the result of any test made by him under the Act and purporting to be signed by him shall be *prima facie* evidence of the facts therein set forth, and shall be receivable without proof of the signature or of the official character of the person who appears to have signed the same in any prosecution under this Act.

13. The Act passed in the 8th year of His Majesty's ^{8 Edw. VII.} reign, chaptered 56, is repealed. ^{c. 56}
repealed.

14. This Act shall come into force on the 1st day of July, ^{Commence-}
1910. ^{ment of}
Act.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting the Manufacture and
Sale of Bread.

1st Reading 24th day of Feb., 1910.
2nd Reading, 28th day of Feb., 1910.

*(Reprinted as amended by the Municipal
Committee.)*

MR. NICKLE

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Mortmain and Charitable Uses Act.

HIS MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of On-
tario, enacts as follows:—

1. Section 2 of *The Mortmain and Charitable Uses Act* 9 Edw. VII.,
c. 58, s. 2,
amended.
is amended by adding thereto the following subsection:

(3) This Act shall apply to all gifts, devises or bequests
upon a condition or contingency, which has not yet happened,
whether the instrument giving or making the said gift, de-
vise or bequest shall bear date or come into operation prior or
subsequent to the passing of this Act.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend The Mortmain and
Charitable Uses Act.

First Reading 24th day of Feb., 1910.

Mr. LENNOX.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Assessment Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 7 of section 2 of *The Assessment Act* is ^{4 Edw. VII., c. 23, s. 2, amended.} amended by inserting after the word "shall" at the end of the first line thereof the words "except as provided in section 2a."

2. *The Assessment Act* is amended by adding thereto the ^{4 Edw. VII., c. 23, amended.} following sections:—

2a. Where the words following occur in sections 4a to 4e ^{Interpretation.} both inclusive and as applied to any municipality in which a By-law passed pursuant to section 4a is for the time being in force, wherever elsewhere they occur in this Act or the schedules hereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

1. "Land," "Real Property" and "Real Estate" ^{"Land," "Real Property," "Real Estate."} shall include:

- (a) Land covered with water;
- (b) All mines, minerals, gas, oil, salt, quarries and fossils in and under land.

2. "Improvements" shall include: ^{"Improvements."}

- (a) All buildings, or any part of any building and all structures, machinery and fixtures, erected or placed upon, in, over, under, or affixed to, land;
- (b) All structures and fixtures erected or placed upon, in, over, under, or affixed to

any highway, road, street, lane or public place or water;
 (c) All trees and underwood growing upon land.

Assessment
of lands and
improve-
ments.

- 4a. (1) In any municipality the council of which by By-law so provides there shall for the purposes of levying of taxes or rates be two classes of assessments, as follows:—
 (a) Lands;
 (b) Improvements, income business and all assessments other than lands.

- (2) There shall in such cases be two rates of taxation, one a higher rate, on lands, and the other, a lower rate, on improvements, income business and all assessments other than lands.

By-law to be
approved of
by ratepayers.

- 4b. No By-law passed pursuant to the provisions of section 4a shall be effective unless it receives the votes of not less than two-thirds of the council on the final passage thereof; or unless it receives the assent of the ratepayers before the final passing thereof.

Petition for
submission of
by-law.

- 4c. Where a petition signed by at least one per cent. of of the ratepayers of any municipality is filed with the Clerk on or before the 1st day of December in any year the council shall submit a By-law such as is referred to in section 4a hereof to the ratepayers at the next ensuing municipal election.

Council to de-
termine rates.

- 4d. Where in any municipality a By-law is adopted pursuant to the provisions of section 4a hereof the council shall by by-law determine the relative rates of taxation of the two classes of assessment.

Repeal of
by-law.

- 4e. No By-law passed pursuant to the provisions of section 4a shall be repealed without the assent of the ratepayers.

No. 182

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend the Assessment Act.

First Reading 24th day of Feb., 1910.

Mr. FRIPP.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Act respecting Statute Labour.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 9 of *The Act respecting Statute Labour* is amended by adding at the beginning of subsection 1 the following words "except as hereinafter provided", and by striking out all the words after the word "lot" in the fourth line of subsection 2 and substituting therefor the following: "And "wherever one person is assessed for lots or parts of lots exceeding in the aggregate 200 acres, each 200 acres or fraction thereof so assessed, shall, for the purposes of this section be treated as if the same were one lot and the statute labour shall be rated and charged accordingly."

4 Edw. VII.,
c. 25, s. 9,
amended.

No. 183

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend The Act respecting
Statute Labour.

First Reading 24th day of Feb., 1910.

Mr. HEARST.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Act respecting Statute Labour

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 9 of *The Act respecting Statute Labour* is amended by adding at the beginning of subsection 1 the following words "except as hereinafter provided", and by striking out all the words after the word "lot" in the fourth line of subsection 2 and substituting therefor the following words: "And the statute labour shall be rated and charged against any excess over 200 acres as if the excess were one lot."

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Act respecting
Statute Labour.

First Reading 24th day of Feb., 1910.

*(Reprinted as amended by the Municipal
Committee.)*

Mr. HEARST.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to prevent Procreation by confirmed Criminals, Idiots, Imbeciles and Rapists.

WHEREAS heredity plays a most important part in Preamble.
the transmission of criminal instincts;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The governing body of every institution in which Appointment of surgeons to examine inmates of institutions. confirmed criminals, idiots, imbeciles and rapists may be confined, in addition to the regular institutional physician shall appoint two skilled surgeons of recognized ability whose duty it shall be in conjunction with the chief physician of the institution to examine such inmates as may be recommended by the chief physician as to their mental and physical condition.

2. If in the judgment of such surgeons procreation by Operation to sterilize inmate. any inmate is not advisable and there is no probability of improving his mental condition, the surgeons may perform such operation on the inmate for the prevention of procreation as they shall deem most safe and effectual.

3. For every consultation as to the condition of an inmate of any such institution the surgeons concerned shall be Fee of surgeons consulted. entitled to a fee of not more than \$3, to be payable out of the funds appropriated for the maintenance of the institution.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to prevent Procreation by
confirmed Criminals, Idiots,
Imbeciles and Rapists.

First Reading 25th day of February, 1910.

Mr. GODFREY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 517 of *The Consolidated Municipal Act, 1903*, ^{3 Edw. VII., c. 19, s. 517} is repealed, and the following section substituted therefor: ^{repealed.}

517. Any agreement or award fixing the amount of compensation to be paid under sections 509 to 516, shall remain in force for five years only from the date thereof and after the expiration of such period the council shall settle anew by agreement or by arbitration under this Act the amount to be paid for a further period of five years and so in like manner from time to time. ^{Agreement or award fixing compensation to remain in force for five years.}

2. Subsection 1, of section 509, of the said Act is ^{3 Edw. VII., c. 19, s. 509, subsec. 1 amended.} amended by striking out the words "bear and pay their just share or proportion of " in the second and third lines, and substituting therefor the words "pay in proportion as they use the services provided." ^{Proportion to be paid by cities and separated towns of expenses of administration of justice.}

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Municipal Act.

First Reading 25th day of February, 1910.

Mr. PEARCE.

BILL

An Act to amend The Ontario Medical Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Medical Amend-Short title.
ment Act, 1910.*

2. Clause (a) of subsection (1) of section 6 of *The Rev. Stat.
Ontario Medical Act* is hereby amended by striking out that c. 176 s. 6,
subsec. 1, portion thereof following the word “surgery” where it cl. (a)
amended. occurs in the eleventh line of the said clause, and by substituting in lieu thereof the following:

“Provided that every University, College or body so Representation
of colleges in
the council. represented shall maintain to the satisfaction of the council. College of Physicians and Surgeons of Ontario a medical faculty in connection therewith.”

3.—(1) Subsection 2 of section 33 of the said Act is Rev. Stat.
c. 176, s. 33
amended. hereby amended by inserting after the word “council” where it occurs in the first line of the said subsection the following, “or the executive committee.”

(2) The said subsection 2 of section 33 of the said Act is Erasing
names from
register. also amended by inserting after the word “conduct” where it occurs in the sixth line of the said subsection the words “the council.”

(3) The said section 33 is also amended by adding thereto Erasure of
name on con-
viction of
crime. the following subsection as subsection 4 thereof:

“Upon receipt of proof of the finding or decision of any court of record of this Province civil or criminal, that a criminal offence has been committed in con-

nection with the practice of his profession by any registered medical practitioner the registrar shall immediately erase from the register the name of such practitioner."

Rev. Stat.
c. 176, s. 35
amended.

4. Section 35 of the said Act is hereby amended by adding thereto the following subsection as subsection 6 thereof.

Service of
notice.

"The notice required by the preceding subsection shall be deemed to have been duly served in accordance with the provisions thereof if sent by registered mail, prepaid, to the address of the person required to be served, as last entered upon the register."

Schedule "A"
amended.

5. Schedule "A" of the said Act is hereby struck out, and in lieu thereof the schedule to this Act is submitted as schedule "A" of the said Act.

SCHEDULE "A."

(Sections 6 and 16.)

TERRITORIAL DIVISIONS.

1. Counties of Essex, Kent and Lambton.
2. Counties of Elgin, Norfolk and Oxford.
3. County of Middlesex.
4. Counties of Huron and Perth.
5. Counties of Waterloo and Wellington.
6. Counties of Bruce, Grey, Dufferin and Simcoe.
7. Counties of Wentworth, Halton and Peel.
8. Counties of Lincoln, Welland, Haldimand and Brant.
9. Districts of Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay and Rainy River.
10. That part of the City of Toronto lying east of Yonge Street.
11. That part of the City of Toronto lying west of Yonge Street.
12. Counties of Ontario, Victoria and York, exclusive of Toronto, and the District of Muskoka.
13. Counties of Northumberland, Peterborough, Durham and Haliburton.
14. Counties of Prince Edward, Hastings and Lennox.
15. Counties of Frontenac, Addington and Renfrew.
16. Counties of Leeds, Grenville, Dundas and Stormont.
17. Counties of Carleton, Russell, Prescott, Glengarry and Lanark.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend The Ontario Medical
Act.

First Reading 25th day of February, 1910.

Mr. PRESTON,
Tanark.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Ontario Medical Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Medical Amendment Act, 1910*.

Short title.

2. Clause (a) of subsection (1) of section 6 of *The Ontario Medical Act* is hereby amended by striking out that portion thereof following the word "surgery" where it occurs in the eleventh line of the said clause, and by substituting in lieu thereof the following:

Rev. Stat.
c. 176 s. 6,
subsec. 1,
cl. (a)
amended.

"Provided that every University, College or body so represented shall maintain to the satisfaction of the College of Physicians and Surgeons of Ontario a medical faculty *actively engaged in teaching* in connection therewith."

Representation
of colleges in
council.

3.—(1) Subsection 2 of section 33 of the said Act is hereby amended by inserting after the word "council" where it occurs in the first line of the said subsection the following, "or the executive committee."

Rev. Stat.
c. 176, s. 33
amended.

(2) The said subsection 2 of section 33 of the said Act is also amended by inserting after the word "conduct" where it occurs in the sixth line of the said subsection the words "the council."

Erasing
names from
register.

(3) The said section 33 is also amended by adding thereto the following subsection as subsection 4 thereof:

Erasure of
name on con-
viction of
crime.

"Upon receipt of proof of the finding or decision of any court of record of this Province civil or criminal, that a criminal offence has been committed in con-

nection with the practice of his profession by any registered medical practitioner the registrar shall immediately erase from the register the name of such practitioner."

Rev. Stat.
c. 176, s. 85
amended.

4. Section 35 of the said Act is hereby amended by adding thereto the following subsection as subsection 6 thereof.

Service of
notice.

"The notice required by the preceding subsection shall be deemed to have been duly served in accordance with the provisions thereof if sent by registered mail, prepaid, to the address of the person required to be served, as last entered upon the register."

Schedule "A"
amended.

5. (1) Schedule "A" of the said Act is hereby struck out, and in lieu thereof the schedule to this Act is submitted as schedule "A" of the said Act.

(2) The word "seventeen" wherever it occurs in Section 6 of the said Act is hereby struck out, and the word "eighteen" inserted in lieu thereof.

SCHEDULE "A."

(Sections 6 and 16.)

TERRITORIAL DIVISIONS.

1. Counties of Essex, Kent and Lambton.
2. Counties of Elgin, Norfolk and Oxford.
3. County of Middlesex.
4. Counties of Huron and Perth.
5. Counties of Waterloo and Wellington.
6. Counties of Bruce, Grey, Dufferin and Simcoe.
7. Counties of Wentworth, Halton and Peel.
8. Counties of Lincoln, Welland, Haldimand and Brant.
9. Districts of Parry Sound, Nipissing, Algoma, Manitoulin,
10. Thunder Bay and Rainy River.
11. That part of the City of Toronto lying east of Yonge Street.
12. That part of the City of Toronto lying west of Yonge Street.
13. Counties of Ontario, Victoria and York, exclusive of Toronto, and the District of Muskoka.
14. Counties of Northumberland, Peterborough, Durham and Haliburton.
15. Counties of Prince Edward, Hastings and Lennox.
16. Counties of Frontenac, Addington and Renfrew.
17. Counties of Leeds, Grenville, Dundas and Stormont.
18. Counties of Carleton, Russell, Prescott, Glengarry and Lanark.

No 186

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Ontario Medical
Act.

1st Reading, 25th day of Feb., 1910
2nd Reading, 1st day of Mar., 1910.

*(Reprinted as amended by a Select
Committee.)*

Mr. PRESTON,
Lanark.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

BILL

An Act to amend The Charity Aid Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Charity Aid Act* is amended by adding the following sections:— Rev. Stat.
c. 320
amended.

16. In this and the following sections of this Act, "Interpreta-
tion."

(a) "Hospital" shall mean and include all public hospitals incorporated by a special Act or by Letters Patent under the Great Seal of the Province of Ontario, and receiving aid under this Act. "Hospital."

(b) "Resident," as applied to a municipality, shall mean and include any person who has resided in such municipality continuously for three months, or who, though not having resided therein continuously for such three months, was actually employed therein immediately prior to being admitted to any hospital. "Resident."

17.—(1) The proper officer of such hospital, immediately upon the admission of any patient to any public ward in such hospital, shall notify by mail the clerk of the municipality from which such patient represents himself or is represented as being brought, that such patient has been admitted to such hospital, giving any other necessary particulars to enable the clerk of the said municipality, city, town or village to identify the patient. Notice to
clerk of
municipality
from which
patient came.

(2) Unless the said clerk, within fourteen days after the mailing of said notice, shall notify said hospital in writing that said patient is not a resident of the said municipality, he shall be so considered for the purposes of the Act. Residence
admitted.

Recovery of
charge from
municipality.

(3) Upon the discharge or death of such patient, the said officer shall immediately notify the Clerk of the said municipality, and the municipal commissioner, enclosing to each a detailed statement of the account of such patient with the hospital (if unpaid by such patient or any one in his behalf), or so much thereof as shall be unpaid, and, upon the said municipality being notified as hereinbefore provided, the said municipality shall become liable to said hospital for the amount of the claim of the said hospital, against such patient if, at the time of his admission to the said hospital, he was a resident of such municipality, and every such claim shall become a debt due from the municipality to the hospital.

Limitation
of charge for
public ward
patient.

18. No hospital shall charge against any municipality for nursing and attendance upon any public ward patient a higher rate than \$1 a day, except as hereinafter provided.

Burial
expenses.

19. In the event of the death of any public ward patient in any hospital, the municipality of which such person was a resident immediately prior to being admitted to such hospital shall be liable to the hospital for the burial expenses of such patient, not exceeding the sum of \$15, and said amount shall become due in the same manner as an account of such hospital for treatment.

Liability of
patient or his
estate to
municipality.

20. Upon payment by any municipality of any account of a hospital for treatment or burial of any public ward patient as hereinbefore mentioned the said patient or his executors or administrators shall immediately become liable for and shall pay to such municipality all sum or sums so paid, and in addition to the remedy hereinafter provided, the said debts may be collected and sued for by such municipality in the same manner as an ordinary action for debt, and neither the patient nor his estate shall be allowed to claim any exemption under any Statute of the Province of Ontario as against any such claim by such municipality as aforesaid.

Agreements
between
municipality
and hospital.

21. It shall be lawful for any municipality and any hospital by agreement between themselves, to provide that the municipality may pay a fixed annual amount to such hospital in lieu of any liability under the provisions of sections 17, 18 and 19 of this Act to any such hospital, and any such agreement shall operate to relieve the municipality entering into the same from any liability under the provisions of the said sections to any such hospital.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend The Charity Aid Act.

First Reading 25th day of February, 1910.

Mr. FRIPP.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

To amend The Municipal Light and Heat Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 9 of *The Municipal Light and Heat Act*, as amended by an Act passed in the 6th year of His Majesty's reign, Chaptered 39, is amended by adding thereto the following subsection:

- (3) The Corporation may, from time to time, and upon such terms as in its discretion it thinks advisable, enter into contracts for the supply of gas or electricity, or other means of lighting or heating, to any person, individual or corporation for a period not to exceed ten years.

Rev. Stat
c. 234, s. 9
amended.
Contracts for
supply of
electricity,
etc., for
ten years.

No 188.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend The Municipal Light
and Heat Act.

First Reading 25th day of Feb., 1910

Mr. McPHERSON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL.

An Act to amend The Ontario Railway and Municipal Board Act, 1906.

HIS MAJESTY, by and with the advice and consent of ^{s Edw. VII.,}
the Legislative Assembly of the Province of Ontario, ^{c. 31, s. 25} amended,
enacts as follows:—

1. Section 25 of *The Ontario Railway and Municipal Board Act, 1906*, is amended by adding thereto the following ^{Payment of}
^{fees of} words, “and such fees shall be charged as expenses of the ^{sheriff, etc.}
administration of justice.”

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Ontario Railway
and Municipal Board Act, 1906.

First Reading 25th day of Feb., 1910.

Mr. McPHERSON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 87 of *The Consolidated Municipal Act, 1903*,^{3 Edw. VII., c. 19, s. 87 amended.} is amended by adding thereto the following subsection:

(2) Provided that in cities having a population of ^{Property qualification in cities over} 100,000, or over, a freeholder of real property ^{100,000.} rated at an actual value of \$200 or upwards, shall be entitled to vote in respect thereof.

2. Section 677 of *The Consolidated Municipal Act, 1903*,^{3 Edw. VII., c. 19, s. 677 amended.} as amended by the Act passed in the 6th year of His Majesty's reign, chaptered 34, section 38, is amended by adding after the word "pavement" in the third and eighth lines thereof, the words "or a new surface on an asphalt pavement as a local improvement on two-thirds vote of council."^{Construction of a new surface on asphalt pavement as a local improvement on two-thirds vote of council.}

3. Subsection 17 of section 542 of *The Consolidated Municipal Act, 1903*, is amended by inserting the words "preventing and" after the word "for" where it first occurs in the first line thereof.^{3 Edw. VII., c. 19, s. 542, subsec. 17 amended. By-laws preventing keeping of gunpowder.}

4. Section 340 of *The Consolidated Municipal Act, 1903*,^{3 Edw. VII., c. 19, s. 340, amended.} is amended by adding thereto the following subsection:

(2) When several debenture by-laws are submitted at the same time to a vote of the qualified rate-payers, the same may be all placed upon one ballot.^{One ballot for several by-laws.}

5. Section 541a of *The Consolidated Municipal Act, 1903*,^{3 Edw. VII., c. 19, s. 541 (a) amended.} is amended by adding thereto the following subsection:

Setting aside
certain dis-
tricts for
dwellings
only.

- (c) For setting aside any street, block or district therein for the erection of dwelling houses only, and may prevent the erection therein of buildings to be used for any other purposes.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend The Municipal Act.

First Reading 25th day of February, 1910.

Mr. McPHERSON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting Town Sites.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where any lot or parcel of land which has not heretofore been sold, leased, located or staked out under any statute of Ontario is hereafter granted by the Crown by letters patent, and after such grant a plan or subdivision of the land into town lots is made, one-fourth in acreage of all the lots or parcels shown upon such plan or subdivision shall be the property of and be vested in the Crown.

One-fourth of lots on plan of town site to be vested in Crown.

2. The land to be so vested shall be ascertained as nearly as practicable as follows:—The Minister of Lands, Forests and Mines shall first select one lot or parcel, and the owner shall then select three lots or parcels and so on in turn, the Minister selecting one and the owner three until the division is made.

Selection of lots by Minister and owner.

3. Every such plan or subdivision shall show the selection so made by marking upon each lot or parcel selected by the Minister, the word "Crown," and shall be approved of by the Lieutenant-Governor in Council and signed by the Minister of Lands, Forests and Mines.

Plan to show selection.

4. No such plan or subdivision and no instrument referring thereto, shall be registered in any Registry Office or Land Titles Office, nor shall any person acquire any title to any lot or parcel after such division until the plan or subdivision has been so approved and signed.

Plans not to be registered until approved and signed.

5. The land which becomes vested in the Crown under this Act may be sold, leased or otherwise disposed of in such manner and under such regulations as the Lieutenant-Governor in Council may from time to time prescribe.

Disposing of lots selected by Crown.

No. 191

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Town Sites.

First Reading 28th day of February, 1910.

Mr. COCHRANE.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 591a of *The Consolidated Municipal Act, 1903*, ^{3 Edw. VII., c. 19, sec. 591a, amended.} is amended by adding at the end thereof, the following:

Notwithstanding anything contained in this section or in ^{Closing up streets and conveying to manufacturers.} section 591 of this Act, the council of any municipality may pass by-laws for closing up any road, street, alley, lane or other public communication or any portion thereof and for conveying the same to any person for the particular use or benefit of a manufacturing industry, and it shall not be necessary to submit such by-law to the electors or to obtain their assent thereto; provided that the council passing such by-law shall comply with the general provisions of this Act as to notice, compensation to persons affected and other matters with respect to by-laws for the closing up of any public road or highway. And provided further, that any person injured by reason of the closing up of such road, street, alley, lane or other public communication or any portion thereof shall be entitled to such compensation from the municipal corporation as may be agreed upon, or in case of disagreement may be determined by arbitration in the manner provided by this Act, and the amount of the compensation so agreed upon or awarded and the costs of arbitration proceedings shall be paid by the owner of the manufacturing industry for whose use or benefit the by-law was passed.

No. 192

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Municipal Act.

First Reading 28th day of February, 1910.

Mr. BREWSTER.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 675 of *The Consolidated Municipal Act, 1903*, ^{3 Edw. VII., c. 19, s. 675,} is amended by adding thereto the following subsection: ^{amended.}

In the case of cities, having a population of less than 100,000, and of towns, where a pavement other than macadam is laid as a local improvement on any street on and along which a street railway is built and in operation, the cost of laying down that portion of such pavement as is laid along the track allowance of such street railway, that is to say, the space between the rails and the space of eighteen inches on the outside of each rail shall not be assessed or levied upon the real properties fronting or abutting upon such street, but such cost shall, unless there is an agreement between the person or company owning such street railway and the corporation to the contrary, be paid by the corporation out of the general funds of the municipality, and any so charged since the first day of March, 1907, shall be transferred and made chargeable to the general funds of the municipality.

Cost of construction, pavement or track allowance of street railway to be paid out of general funds.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Municipal Act.

First Reading 28th day of February, 1910

Mr. JESSOP.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Act to authorize and regulate the use of Traction Engines on Highways.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 1 of *The Act to authorize and regulate the Use of Traction Engines on Highways*, is amended by adding the following as subsection (a) thereof: Rev. Stat., c. 242, amended.

- (a) It shall not be lawful for any person to run any traction engine, whether for the conveyance of freight or passengers or otherwise, or any wagon or truck drawn thereby over any pavement in any city or town, unless such engine and wagon or truck shall be equipped with wheels having a smooth running surface. Wheels to have smooth running surface.

No. 194

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend the Act to authorize and
regulate the Use of Traction Engines
on Highways.

First Reading 28th day of February, 1910

Mr. BREWSTER.

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 1 of section 276b of *The Consolidated Municipal Act, 1903*, as enacted by section 6 of *The Municipal Amendment Act, 1909*, is further amended by adding at the end of the said subsection the following subsection:

- (2) Notwithstanding anything in this Act or in any special Act contained, the Council of a city having a population of over 200,000 may, by a vote of two-thirds of the members of the Council before the 15th day of July in any year, pass a resolution affirming the expediency of a new division into wards being made of the city, and of fixing the number of aldermen to be elected for each ward, and the Lieutenant-Governor in Council may by proclamation divide the city into wards and fix the number of aldermen for each ward as may seem expedient.

New division
into wards.

No. 195

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend The Municipal Act.

First Reading 28th day of February, 1910.

Mr. McPHERSON

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Judicature Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 3 of section 3 of *The Judicature Act* as enacted by section 1 of the Act to amend the Judicature Act passed in the Third Year of His Majesty's Reign, chaptered 8, is hereby amended by adding thereto the following words:

Rev. Stat., c.
51, s. 3,
sub. 3; 3
Edw. VII.,
s. 1, amended.

“With three Judges attached to each Division as herein after mentioned and of additional Judges of High Court. Judges who shall not be attached to any division.”

No. 196

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend the Judicature Act.

First Reading 28th day of February, 1910

Mr. Foy

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Ontario Municipal Securities Act, 1908.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. Subsection 1 of section 3 of *The Ontario Municipal Securities Act, 1908*, is amended by inserting after the word “By-law” in the 8th line, the words “or any person entitled to a debenture issued or to be issued, or to the proceeds of the sale thereof, or to the payment of the liability intended to be created by such By-law.” 8 Edw. VII., c. 51, s. 8, subsec. 1 amended.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend the Ontario Municipal
Securities Act, 1908.

First Reading, 1st day of March, 1910.

Mr. DOWNEY.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Ontario Municipal Securities Act, 1908.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 1 of section 3 of *The Ontario Municipal Securities Act, 1908*, is amended by inserting after the word “By-law” in the 8th line, the words “or any person entitled to receive any or all of the debentures issued or to be issued *under the by-law*, or the proceeds of the sale thereof, or to payment of the liabilities *or any of them* intended to be created by such By-law.” s Edw. VII, c. 51, s. 8, subsec. 1 amended.

No. 197

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend the Ontario Municipal
Securities Act, 1908.

First Reading, 1st day of March, 1910.

*(Reprinted as amended by the Municipal
Committee.)*

Mr. DOWNEY.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Registry Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 9 of *The Registry Act* is amended by striking out all the words therein after the words “registry offices exist” in the 13th line and inserting in lieu thereof the words “shall bear a rateable proportion of the expense thereof based on the assessment of all the municipalities in the registry division.”

Rev. Stat.
c. 136, s. 9
amended.

No. 198

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act to amend the Registry Act.

First Reading, 1st day of March, 1910

Mr. CRAIG.

No. 199

1910

BILL

An Act to amend The Municipal Act.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. Section 537 of *The Consolidated Municipal Act, 1903*, <sup>3 Edw. VII.,
c. 19, s. 537</sup>
is amended by adding the following as paragraph 8:— ^{amended.}

BY THE COUNCIL OF CITIES.

8. For the appointment of a Commissioner of Industries <sup>Commissioner
of Industries.</sup>
whose duty it shall be to bring to the notice of manufacturers
and others the advantages of the City as a location for in-
dustrial enterprises, summer resorts, residential, educational
and other purposes, and for prescribing the duties of such
officer and for fixing his salary or other remuneration.

No. 199

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend the Municipal Act.

First Reading, 1st day of March, 1910.

Mr. FRASER.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Pharmacy Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 10 of *The Pharmacy Act* is amended by adding as subsection 3 thereto the following:

Rev. Stat.
c. 179, s. 10
amended.

- (3) The Council of the said College may appoint, from time to time, one or more representatives to attend meetings of Inter-Provincial or other Pharmaceutical Associations, and the said Council may pay out of the College funds to any one or more of said Pharmaceutical Associations, such sums as it may deem proper, and the payment of all such sums heretofore made by the said Council is hereby ratified and confirmed.

Appointment
of representa-
tive to attend
Inter-Pro-
vincial
Associations.

No. 200

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Pharmacy Act.

First Reading 2nd day of March, 1910.

Mr. TORRANCE.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Ontario Railway Act, 1906.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. *The Ontario Railway Act, 1906*, is amended by inserting therein the following as section 116a; 6 Edw. VII., c. 30 amended.

116a. Every officer or employee of any company who demands or receives from a passenger upon any car or other conveyance a greater amount in payment of fare or toll than that to which the company is entitled shall incur a penalty of not less than \$5 and not more than \$25, to be recoverable on summary conviction. Penalty for taking excessive fare or toll.

No. 201

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Ontario Railway
Act, 1906.

First Reading 2nd day of March, 1910.

Mr. Brower.

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Motor Vehicles Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 3 of section 5 of *The Motor Vehicles Act*, is amended by adding thereto the following words: “nor 6 Edw. VII., c. 46, s. 5, subsec. 3 amended. any light which is stronger than thirty-two candle power; and any lantern or lamp made of brass or other bright metal upon such motor vehicle shall during the day time be completely covered by some dark material to prevent glare.”

2. Section 10 of *The Motor Vehicles Act* as amended is repealed and the following substituted therefor: }

10. Every person having control or charge of any motor vehicle on any public street or highway shall at all times operate, manage and control such motor vehicle in such manner as to prevent the frightening of any horse or horses, and to ensure the safety and protection of any person riding or driving any horse or horses; and outside the limits of any city or town shall, if going in the same direction as such rider or driver, signal his desire to pass and shall give such rider or driver an opportunity to turn out, so that such rider or driver may be passed in safety; and shall whenever he shall be within a distance of 100 yards from any horse or horses on the public highway which is or are in charge of a woman, or of a person of either sex apparently under the age of sixteen years immediately stop such motor vehicle including the motor; and shall, if any horse or horses on the public highway is or are in charge of any per- Rules to be observed by drivers of motor vehicles.

son other than the aforesaid and in whatever direction it or they may be proceeding in relation to the motor vehicle or if standing not drive near or past it or them at a faster rate than five miles per hour, and shall if such horse or horses appears or appear to be frightened, or if he is signalled so to do, immediately stop such motor vehicle including the motor and in all such cases requiring the motor vehicle to be stopped, it shall remain stationary until such horse or horses, if going in the opposite direction shall have passed the motor vehicle or if standing or going in the same or any other than the opposite direction until full provision has been made to avoid accident or damage, or until directed by such rider or driver to proceed; and he and the occupants of such motor vehicle shall in any of the said circumstances render all necessary assistance to prevent accident and all reasonable assistance requested by the rider or driver in control of any such horse or horses on the public highway.

9 Edw. VII.,
c. 81, s. 19
repealed.

3. Sections 19, 19a, 19b, 19c and 19d of *The Motor Vehicles Act* as enacted by the Act passed in the ninth year of His Majesty's reign, Chaptered 81, are repealed, and the following substituted therefor:—

Penalties.

19.—(1) Any person violating any of the provisions of sections 3, 8, 10, 11 or 19 of this Act shall upon summary conviction be liable for the first offence of a fine of \$50, or one month's imprisonment, or both; and for the second or any subsequent offences to a fine of \$100, or six month's imprisonment or both, in addition to the cancellation of the permit or license as hereinafter provided.

License and
permits to
be carried by
holder.

(2) Every person licensed to drive a motor vehicle for hire, pay or gain under the terms of section 2a of this Act, shall at all times while so employed carry with him the license under which he acts, and every other person driving or operating a motor vehicle upon the public highway shall at all times while so engaged, carry with him the permit issued in respect of the said motor vehicle and every person driving or operating a motor vehicle shall produce the license or permit, as the case may be, to the Police Magistrate or Justice of the Peace be-

fore whom he may be charged with the violation of any of the provisions of this Act; and it shall be the duty of such Police Magistrate or Justice of the Peace before returning such permit or license to endorse upon it the date and a short signed statement of the particulars of any conviction made by him against the person to whom such permit or license has been issued, unless it appears therefrom or is otherwise satisfactorily proven that the person to whom such permit or license has been issued, has been convicted of the violation of any of the provisions of this Act within a period of twelve months from the date on which the offence under his consideration is found to have occurred; in such case and if a conviction be made, such Police Magistrate or Justice of the Peace shall retain the said permit or license endorsing thereon the date and short particulars of the conviction, write across the face the words, "cancelled for second conviction," and having signed such memoranda shall forthwith forward the same by registered post letter to the Provincial Secretary.

(3) No person shall drive or operate a motor vehicle upon any public street or highway unless he has with him at such time the license issued to him, if he be operating for hire, pay or gain; or if not operating for hire, pay or gain, unless he have with him the permit issued in respect of the motor vehicle which he is driving or operating, and any person violating the provisions of this subsection shall be liable to the penalties provided by subsection 1 of this section.

Penalty for
not carrying
license or
permit.

No. 202

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Motor Vehicles
Act.

First Reading 2nd day of March, 1910.

Mr. Stock.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty

BILL

An Act respecting Industrial Schools.

SHORT TITLE, s. 1.	PAROLE IN THREE YEARS, s. 17.
INTERPRETATION, s. 2.	Rights of a board on return of child to school, s. 17 (2).
ESTABLISHMENT BY SCHOOL BOARD, s. 3.	Supervision after leaving school, s. 17 (3).
DELEGATION OF POWERS TO SOCIETY, s. 4.	PERSONS COMMITTED TO REMAIN UNDER GUARDIANSHIP TILL 21, s. 18.
SOCIETIES MAY BORROW ON DEBENTURES, s. 5.	TRANSFER OF CHILD FROM ONE SCHOOL TO ANOTHER, s. 19.
AID FROM SCHOOL BOARDS, s. 6.	VISITS BY CLERGYMAN, s. 20.
GUARANTEE OF DEBENTURES BY CITIES AND TOWNS, s. 7.	CHILDREN MAY RESIDE WITH RESPECTABLE PERSONS, s. 21.
RELIGIOUS CORPORATIONS EMPOWERED TO GRANT OR LEASE LANDS, s. 8.	WHAT SHALL BE DEEMED ESCAPE FROM SCHOOL, s. 22.
APPOINTMENT OF TEACHERS AND GENERAL SUPERINTENDENT, s. 9.	APPREHENSION ON ESCAPE OR ABSENCE, s. 23.
CERTAIN CHILDREN UNDER SIXTEEN MAY BE BROUGHT BEFORE MAGISTRATE, s. 10.	Aiding or abetting escape, s. 23 (2).
Magistrate to enquire into facts, s. 10 (2).	MUNICIPALITY LIABLE FOR MAINTENANCE, s. 24.
Hearing in private, s. 10 (3).	CHILDREN FROM UNORGANIZED TERRITORY, s. 25.
Magistrate may order child to school, s. 10 (4).	POWER TO ORDER PARENT, ETC., TO MAINTAIN CHILD, s. 26.
CHILD UNDER SIXTEEN MAY BE SENT TO INDUSTRIAL SCHOOL, s. 11.	RULES OF MANAGEMENT, s. 27.
INSPECTOR MAY SEND CHILD TO SCHOOL, s. 12.	PROVISIONAL GRANT IN AID, s. 28.
ROMAN CATHOLIC CHILDREN, s. 13.	PENALTY IN CASE OF FALSE RETURN, s. 29.
TRANSPORTATION OF CHILDREN TO SCHOOL, s. 14.	INSPECTION OF SCHOOLS RECEIVING PUBLIC AID, s. 30.
PARTICULARS TO BE SET OUT IN ORDER, s. 15.	INSPECTION BY PUBLIC SCHOOL INSPECTOR, s. 31.
DEPOSITIONS TO BE DELIVERED TO PERSON EXECUTING WARRANT, s. 16.	By Separate School Inspector, s. 31 (2).
	Limit of Powers and Duties of Inspectors, s. 31 (3).
	REPEAL, s. 32.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Industrial Schools Act.*" R.S.O. 1897, c. 234, s. 1.

Interpreta-
tion.

2. In this Act,

"Board of
Public School
Trustees."

"Board of public school trustees" shall include a board of education.

"Industrial
School."

"Industrial school" shall mean a school in which industrial training is provided, and in which children are lodged, clothed and fed, as well as taught, and which has been certified by the Minister under section 3 of this Act.

"Industrial
School
Board."

"Industrial school board" shall mean and include a board of education, a board of public school trustees, a board of separate school trustees, a board of management, or any other body having control of an industrial school.

"Inspector."

"Inspector" shall mean Superintendent of neglected and dependent children or such other officer as may be designated by the Lieutenant-Governor in Council. 8 Edw. VII., c. 59, s. 2, (c), (m).

"Judge."

"Judge" shall include a Judge of the High Court, a Judge of a County or District Court, a Police Magistrate and a Justice of the Peace.

"Minister."

"Minister" shall mean the Provincial Secretary of Ontario or other member of the Executive Council charged by the Lieutenant-Governor in Council with the administration of this Act. R.S.O. 1897, c. 304, s. 2 (4), (but see 8 Edw. VII., c. 59, s. 2 (g)).

"Municipal-
ity."

"Municipality" shall mean and include a city, county or a town separated from the county for municipal purposes, and a town having a population of 5,000 or over in a provisional judicial district. 8 Edw. VII. c. 59, s. 2 (h).

"Philanthro-
pic Society."

"Philanthropic society" shall mean a society approved by the Lieutenant-Governor in Council for the purposes of this Act. R.S.O. 1897, c. 304, s. 2 (1, 2, 3).

Establishment
by school
board.

3.—(1) The board of public school trustees or the board of separate school trustees of any city or town may acquire by purchase, lease or otherwise such real and personal property, and may erect, equip and maintain such buildings as they may deem necessary or proper for the purposes of an industrial school, and may establish, control and manage an industrial school.

Notice to
Minister.

(2) The board shall cause notice of the establishment of the school to be given to the Inspector, who shall report thereon to the Minister.

(3) If the Inspector reports in favour of such action the Minister may, in writing under his hand, certify that the school is a fit and proper one for the reception of children to be sent there, and the school shall thereupon be deemed a certified industrial school for the purposes of this Act. R.S.O. 1897, c. 304, s. 3.

Certificate by
Minister.

4.—(1) Any board of school trustees may delegate the powers, rights and privileges, conferred upon it by this Act, respecting the establishment, control and management of an industrial school to any philanthropic society.

Delegation of
powers to
society.

(2) Thereafter this Act shall apply to the philanthropic society as fully as to the said board.

Application of
Act to society.

(3) The chairman and secretary of the board of public school trustees of the city or town in which the industrial school is situated, or under whose control it is placed, and the chief public school inspector of the city or town, shall be members of the board of management of the society when acting under powers delegated by the board of public school trustees.

Representation
of school
boards on
board of
management.

(4) The chairman and secretary of the separate school board shall be members of the board of management of a society acting under powers delegated by the separate school board. R.S.O. 1897, c. 304, s. 5 (1).

Representation
of separate
school board.

5.—(1) A philanthropic society to which the powers of a school board have been delegated, in addition to any powers which it may possess as to raising money on the security of its property, may borrow money on debentures to an amount not exceeding two-thirds of the value of the real and personal property owned by such society, and such debentures shall be a charge upon the real and personal property of the society.

Societies
may borrow
on debentures.

(2) A certificate of the number and amount of such debentures as they are issued under the seal of the society and signature of the president or secretary, shall be filed in the proper registry office or land titles office, and shall be open to inspection on payment of 10 cents. R.S.O. 1897, c. 304, s. 6.

Registration
of certificate of
debentures.

6. A school board authorized to establish an industrial school and the council of any municipality may grant aid to any industrial school in the same manner as to other schools, notwithstanding that such school does not lie within the municipality wherein such school board or council has jurisdiction. R.S.O. 1897, c. 304, s. 7.

Aid to indus-
trial schools.
from school
boards.

Authorizing corporations of cities and towns guarantee to debentures issued, for industrial school purposes.

Debentures issued for public industrial schools to be supported by public school moneys.

7.—(1) The council of the city or town may by by-law guarantee any debentures issued for industrial school purposes to the amount authorized by section 5 of this Act.

(2) Any debenture debt guaranteed by a municipal corporation under this section which has been incurred by the board of public school trustees or a philanthropic society acting under powers derived from such board shall be a liability of the supporters of public schools, and any debt incurred by the board of separate school trustees or by a philanthropic society acting under powers derived from a separate school board shall be a liability of the supporters of separate schools. R.S.O. 1897, c. 304, s. 8.

Religious corporations empowered to grant or lease lands to industrial schools.

8. Any religious corporation may set apart and grant or lease for a nominal consideration, or otherwise for industrial school purposes, any land which it has a general power to dispose of for religious, charitable or educational purposes, without being deemed guilty of a breach of trust. R.S.O. 1897, c. 304, s. 9.

Appointment of teachers and general superintendent.

9.—(1) A school board which has delegated its power to establish an industrial school shall provide the teachers necessary for the school, and the general superintendent shall, when practicable, be selected from the teachers so appointed.

School boards may pay a per capita allowance instead of furnishing teachers.

(2) In lieu of providing such teachers, the school board may annually pay a *per capita* allowance to the industrial school board for each child taught, but such allowance shall not be less than the average cost *per capita* for each child attending the industrial school in the then next preceding year.

When industrial school board to provide teachers.

(3) Where the school board adopts such plan of payment, the power of hiring and discharging teachers shall vest in the industrial school board. R.S.O. 1897, c. 304, s. 10.

Certain children under sixteen may be brought before Police Magistrate or Justices.

10.—(1) Any person may bring before a Judge any child apparently under the age of sixteen years, who:

- (a) Is found begging or receiving alms, or being in any street or public place for the purpose of begging or receiving alms;
- (b) Is found wandering, and has not any home or settled place of abode or proper guardianship;
- (c) Is found destitute, either being an orphan or having a surviving parent who is undergoing imprisonment;
- (d) Is an habitual truant and whose parent or teacher represents that he is unable to control the child; (New).

(e) Is, by reason of the neglect, drunkenness or other vices of his parents, suffered to grow up without salutary parental control and education, or in circumstances exposing him to lead an idle and dissolute life;

(f) Has been accused or found guilty of petty crime.
R.S.O. 1897, c. 304, s. 11 (1).

(2) No formal information shall be requisite, but the Judge shall have the child brought before him, and shall, in the presence of the child, take evidence in writing under oath of the facts charged, and shall make reasonable inquiry into the truth thereof. R.S.O. 1897, c. 304, s. 11 (2). Magistrate to inquire into truth of facts charged.

(3) The Judge shall hear all cases coming before him under this section in private. Hearing in private.

(4) If the Judge is satisfied on inquiry that it is expedient to deal with the child under this Act, instead of committing him to a gaol or reformatory he shall make his order in writing that the child be sent to an industrial school. R.S.O. 1897, c. 304, s. 11, *part amended*. Magistrate may order child to school; requisites of the order.

11. Where under the authority of any statute of the Province, or of any other statute or law of Canada, any person is convicted of an offence punishable by imprisonment, and the Judge before whom he is convicted is of opinion that such offender is under the age of sixteen years, the Judge may make the order provided for in the next preceding section. R.S.O. 1897, c. 304, s. 14 (1). Child under 16 may be sent to industrial school.

12. The Inspector may by his order in writing direct that a child who has been placed in a foster home under the provisions of *The Children's Protection Act* shall be sent to an industrial school. (*New.*) Inspector may send child to school. 8 Edw. VII., c. 59.

13. The Judge or Inspector shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, as far as practicable, send a Roman Catholic child to a Roman Catholic industrial school, and a child of any other religious persuasion to a school established by and with the sanction of a board of public school trustees. R.S.O. 1897, c. 304, s. 17, *part*. Roman Catholic children.

14. Every child sent to an industrial school shall where practicable be taken to the school by an agent or member of a Children's Aid Society, and the actual expense incurred in so doing shall be borne by the municipality liable for maintenance. (*New.*) Transportation of children to school.

Particulars to
be set out in
order.

15. The Judge or Inspector shall in his order designate the school to which the child is to be sent and the person in whose custody he is to be conveyed to the school, and shall, where practicable, state the name, age and parentage of the child, his religious persuasion, and the municipality liable for his maintenance.

Depositions to
be delivered
to person
executing
warrant.

16. The Judge or Inspector shall deliver to the person having the execution of the order, the depositions taken by him, or a certified copy thereof, which depositions or copy shall be delivered to the general superintendent or officer receiving the child into the industrial school. R.S.O. 1897, c. 304, s. 23, *part*.

Parole in
three years.

17.—(1) Every child sent to an industrial school shall, within three years from the date of the order, be given over to the custody of his or her parents or be apprenticed or placed out in a foster home as the industrial school board may deem advisable.

Rights of a
Board on
return of
child to
school.

(2) After a child has been given over to the custody of his or her parents or has been apprenticed or placed out in a foster home, the general superintendent of the school, with the approval of the Inspector, may if he deems it necessary in the interest of such child, cause the child to be returned to the school and thereafter the Industrial School Board shall have the right to collect the amount for maintenance directed to be paid when such child was committed.

Supervision
after leaving
school.

(3) An industrial school board shall exercise and maintain supervision over every child committed to its guardianship after leaving the school and shall keep such records and provide for such visits as may be prescribed by the Inspector.

Persons com-
mitted to
remain under
guardianship
until 21 years
old.

18. Subject to the provisions of section 19, every child committed to an industrial school shall remain under the guardianship of the industrial school board, and it shall possess and exercise all the rights and powers of a parent in regard to such child until he shall attain the age of 21 years. R.S.O. 1897, c. 304, s. 24, *amended*.

Transfer of
child from
one school to
another.

19. The Minister may at any time order that a child be transferred from one industrial school to another, or may order that a child be discharged from an industrial school either absolutely or on such conditions as he may think fit, and the child shall be transferred or discharged accordingly. R.S.O. 1897, c. 304, s. 21.

20. A clergyman of the religious persuasion to which a child appears to belong may visit the child at the school for the purpose of instructing him in religion on such days and at such times as may be fixed by regulations of the Minister. R.S.O. 1897, c. 304, s. 18.

Visits by
clergymen.

21.—(1) An Industrial School Board may permit a child sent to the industrial school to live at the dwelling of any trustworthy and respectable person; but the control of such board over the child shall not thereby be abated or diminished, nor the liability of any municipality for the maintenance of such child increased. R.S.O. 1897, c. 304, s. 19 (1), *part*.

Children may
reside with
respectable
persons.

22. If the child leaves the person with whom he is placed, without the permission of the Industrial School Board or refuses to return to the school, he shall be deemed to have escaped from the school. R.S.O. 1897, c. 304, s. 31.

What shall be
deemed escape
from school.

23.—(1) If a child sent to an industrial school escapes from the school or neglects to attend thereat, he may, at any time before the expiration of his period of detention, be apprehended without warrant, and may be brought back to the school, there to be detained during the period equal to so much of his period of detention as remained unexpired at the time of his escape. R.S.O. 1897, c. 304, s. 32.

Apprehension
on escape or
absence.

(2) Every person who aids or abets any child in such escape shall incur a penalty not exceeding \$25, to be recoverable upon summary conviction before a Police Magistrate or two Justices of the Peace.

Aiding or
abetting
escape.

24. Where the maintenance of a child is not otherwise fully provided for, the municipality in which the child resided for one year last preceding his admission to the school shall pay the sum of \$1.25 per week towards the expenses of maintenance. R.S.O. 1897, c. 304, s. 30 (3), *amended*.

Municipality
liable for
maintenance.

25. The Treasury of Ontario shall pay towards the maintenance of every child sent to an industrial school from a provisional judicial district, for whose maintenance a city or town is not liable, *the sum of 43 cents for each day's actual stay of the child in the school*.

Children from
unorganized
territory.

26.—(1) On the complaint of an Industrial School Board or of a municipal corporation liable to contribute to the maintenance of a child in an industrial school, the Judge of the Division Court of the division in which the parent, step-parent or guardian of the child resides, may, summon the

Power to
order parent,
etc., to
maintain a
child.

parent, step-parent or guardian before him and may examine into his ability to maintain the child; and the Judge may, if he thinks fit, order the parent, step-parent or guardian to pay to the Industrial School Board or municipality such weekly sum, not exceeding \$1.25 per week, as to the Judge seems reasonable, during the whole or any part of the time during which the child is liable to be detained in the school; and the said order shall for all purposes be a judgment of the Division Court. R.S.O. 1897, c. 304, s. 27.

Varying the order for maintenance.

(2) On the application either of the parent, step-parent or guardian, or of the Industrial School Board or municipality, after fourteen days' notice of the application has been given to the other party, the Judge making such order, or any other Judge holding the Division Court, may from time to time vary the same. R.S.O. 1897, c. 234, s. 28.

Rules of management.

27. Every Industrial School Board may make rules for the management and discipline of the industrial school established by it, but such rules shall not take effect until approved in writing by the Inspector. R.S.O. 1897, c. 304, s. 26, *amended*.

Provisional grant in aid.

28.—(1) The sum of *twenty-five cents* for each day's actual stay of a pupil in an industrial school complying with the requirements shall be paid quarterly by the Treasurer of Ontario to the Industrial School Board out of any moneys appropriated by the Legislature for that purpose.

How amount to be calculated.

(2) In calculating the amount of aid to be so given, the day of departure of any pupil from such institution shall be included. R.S.O. 1897, c. 304, s. 39.

How grant to be payable.

(3) The moneys payable under this section shall be paid by the Treasurer upon the report of the Inspector approved by the Minister.

Penalty in case of false return.

29. Any person who knowingly and wilfully makes, or is a party to, or procures to be made, directly or indirectly, any false statement in a return required by or under the authority of this Act, shall incur a penalty of \$500 to be payable to the Treasurer of Ontario, and to be recoverable only at the suit of the Crown. R.S.O. 1897, c. 304, s. 40.

INSPECTION OF INDUSTRIAL SCHOOLS.

Inspection of schools receiving public aid.

30. The Inspector shall have the right to inspect every institution receiving aid under this Act, and shall from time to time report on the general management and efficiency of the work carried on.

31.—(1) When required by the Public School Board, the Inspector of Public Schools for the city or town shall visit and inspect any industrial school established by such Board or by a philanthropic society to which it has delegated its powers, for the purpose of reporting upon the efficiency of its teachers and the progress of the pupils in any of the branches of the school work coming within those prescribed by the Regulations of the Department of Education for public schools.

Inspection by
public school
Inspector.

(2) An Inspector of Separate Schools upon the request of a separate school board may visit, inspect and report in like manner upon a Roman Catholic Industrial School established by such Board or by a philanthropic society to which it has delegated its powers.

By separate
school
Inspector.

(3) Save as aforesaid the Inspector of Public Schools and the Inspector of Separate Schools shall not be called upon to perform any duty and shall not possess any powers with respect to Industrial Schools.

Limit of
powers and
duties of
Inspectors.

32. Chapter 304 of The Revised Statutes of Ontario, 1897, and all amendments thereto are repealed.

Rev. Stat.
c. 304 and
amendments
repealed.

No. 203

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Industrial Schools.

First Reading 2nd day of March, 1910.

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Public Schools Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 1 of section 11 of *The Public Schools Act*,^{9 Edw. VII., c. 89, s. 11,} is amended by adding at the end thereof the words “provided
that in a county the board shall select a site as nearly as may
be in the centre of the school section.”^{subsec. 1 amended.}

Selection of
school sites.

No. 204

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Public Schools
Act.

First Reading 2nd day of March, 1910.

Mr. INNES.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Truancy Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 1 of section 7 of *The Truancy Act* is amended by adding the word "township" after the word "town" in the third line thereof.

9 Edw. VII.,
c. 92, s. 7
amended.
Townships
to appoint
truant
officers.

2. Subsection 3 of said section is repealed.

9 Edw. VII.,
c. 92, s. 7,
subsec. 3
repealed.

No. 205

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Truancy Act.

First Reading 2nd day of March, 1910.

Mr. INNES.

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

An Act respecting the Executive Council.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Executive Council shall be composed of such persons as the Lieutenant-Governor from time to time thinks fit and shall appoint, and each Executive Councillor so appointed shall be a Minister of the Crown, and all such Executive Councillors shall rank among themselves in the order of their appointments respectively.

2. The Lieutenant-Governor may appoint under the Great Seal from among such Ministers of the Crown the following Ministers with portfolio to hold office during pleasure: A President of the Council, an Attorney-General, a Secretary and Registrar, a Treasurer, a Minister of Lands, Forests and Mines, a Minister of Agriculture, a Minister of Public Works, and a Minister of Education, and such other Ministers as he may see fit; and may by Order in Council prescribe their duties and the duties of the several Departments over which they preside, and of the officers and clerks thereof, and all other Ministers of the Crown shall be styled Ministers without portfolio.

3.—(1) Any of the powers and duties which have been heretofore or may be hereafter assigned by law to any of the persons constituting the Executive Council, may, from time to time, by Order in Council, be assigned and transferred either for a limited period or otherwise to any other Member of the Executive Council by name or otherwise.

(2) On request made to him by the Member of the Executive Council to whom any duties and powers have been assigned as herein provided, any other member of the Executive Council may for a period not exceeding one week perform such duties and exercise such powers in place of the Member making the request, and in such case no Order in Council shall be required.

Members of
Executive
Council not
to sit or vote
in Parliament
of Canada.

4. If a member of the Executive Council of Ontario, while he holds such office, sits or votes as a Member of the Senate or of the House of Commons of Canada, he shall thereby forfeit his office, and his appointment as Executive Councillor shall from thenceforth be null and void, and he shall be incapable of being reappointed to or holding the office of Executive Councillor of Ontario so long as he is a Member of the Senate or of the House of Commons of Canada.

Execution of
contracts
with Crown.

5. No deed or contract in respect of any matter under the control or direction of a Member of the Executive Council shall be binding on His Majesty or be deemed to be the act of such Member of the Executive Council unless the same is signed by him or is approved by the Lieutenant-Governor in Council.

8 Edw VII.,
c 6; 8 Edw.
VII., c. 33,
s. 20
repealed.

6. *The Act respecting the Executive Council* passed in the Eighth year of His Majesty's reign, Chaptered 6, and section 20, of *The Statute Law Amendment Act, 1908*, are hereby repealed.

No. 206

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act respecting the Executive Council.

First Reading, 3rd day of March, 1910.

Sir JAMES WHITNEY.

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Local Municipal Telephone Act, 1908.

IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 11 of *The Local Municipal Telephone Act, 1908*, is repealed and the following substituted therefor: ^s Edw. VII, c. 69, s. 11 repealed.

(1) Where the subscribers or a majority of them in a petition for the establishment or extension of the system pray that the payment of the cost of the work may be extended over a period not exceeding ten years, and that debentures of the initiating municipality may be issued to pay the cost of the said work the Council of the initiating municipality in the by-law providing for such establishment or extension, or in a subsequent by-law may provide for the issue of debentures upon the credit of the initiating municipality payable within ten years from the date of the issue thereof, and that the proceeds of such debentures shall be applied in payment of the cost of establishing or extending the system, and for levying a special rate upon the property of the subscribers sufficient to discharge any debt so incurred in equal annual instalments of principal and interest. Issue of debentures by initiating municipalities.

2. *The Local Municipal Telephone Act, 1908*, is further amended by adding thereto the following section:—

11. (1) The initiating municipality may make agreements with any bank or with any person or body corporate for temporary advances and loans for meeting the cost of the work until the completion thereof, and may then pass the Agreement with bank for advances.

No. 207.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act to amend the Local Municipal
Telephone Act, 1908.

First Reading, 3rd day of March, 1910.


Mr. ELBER.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Local Municipal Telephone Act, 1908.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

 1. Section 2 of *The Local Municipal Telephone Act*,^{8 Edw. VII., c. 49, s. 11,} 1908, is amended by adding thereto the following clauses:—^{repealed.}

(d) "Maintenance" shall include not only the cost of repair and maintenance, but also the cost of switching and the use of switch boards contracted for by the initiating Municipality with any other Company or person and the cost of labour and superintendence and management of the system, including the extensions.


Meaning of "Maintenance."

(e) "The cost of the construction, erection and installing of an extension" shall mean not only the cost of such construction, erection and installing, but also the cost of such improvement or strengthening of the original system, or any extension thereof, then in existence, as may be necessary or expedient by additional poles, wires, cross-arms, braces, pins, bolts and other appliances, and by such work or labour as may be deemed necessary or expedient by the initiating Municipality to enable it to give the subscribers for the extension efficient telephone service.

Meaning of "cost of construction, etc., of extension."

2. Section 11 of the said Act is amended by adding the following subsections:

8 Edw. VII., c. 49, s. 11, amended.


 (1a) The Council of the initiating Municipality may also by the by-law establishing the system or by any by-law or by-laws which may be passed from time to time, provide the terms on which persons who were not original subscribers may be entitled to become subscribers and to connection of their premises with the system.

Serving persons, not original subscribers.



Issue of
debentures.

(1b) Such Council may also by any such by-laws passed from time to time authorize the issue of debentures, whether original or additional, to provide for the cost of any extensions of the system, such debentures to be payable by annual instalments within ten years from the date of issue, and shall by any such by-law impose and make provisions for levying, on the respective properties of subscribers with which connection is to be made, an annual special rate sufficient to discharge the said debentures and the interest thereon as the same falls due.

Assent of
electors not
required.

(1c) All the debentures in this section mentioned shall be issued on the credit of the Municipality and the by-law authorizing their issue need not be submitted for the assent of the electors, and this section shall be deemed declaratory of the law on and from the 14th day of April, 1908. 

8 Edw. VII.,
c. 49, s. 11,
amended.

 3. Section 11 of  *The Local Municipal Telephone Act, 1908*, is further amended by adding thereto the following subsections:—

Agreement
with bank
for advances.

(4) The initiating municipality may make agreements with any bank or with any person or body corporate for temporary advances and loans for meeting the cost of the work until the completion thereof, and may then pass the necessary by-law authorizing the issue of debentures, out of the proceeds of which the amount of the temporary loans and advances shall be paid as a first charge, but the by-law for the issue of debentures shall be passed not later than two years after the initiating municipality shall have enacted the by-law for the establishment of the local telephone system, and the debentures under said by-law shall be issued within *twelve* months after the passing of such by-law.

Application of
certain pro-
visions of
8 Edw. VII.,
c. 19.

(5) The provisions of sections 396, 397 and 399 of *The Consolidated Municipal Act, 1903*, shall be applicable to this Act, except that wherever in said sections the words "three months" shall appear, the words "one month" shall be substituted therefor.

No. 207.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act to amend the Local Municipal
Telephone Act, 1908.

First Reading, 3rd day of March, 1910.

*(Reprinted as amended by The Municipal
Committee.)*

Mr. EILBER.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

An Act to amend The Act respecting The Law Society of Upper Canada.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of *The Act respecting the Law Society of Upper Canada* (as amended by section 1 of the Act passed in the 63rd year of the reign of Her late Majesty, Queen Victoria, Chaptered 20) is hereby amended by adding after the words inserted by said amending Act, the words "or shall have been elected under this Act as a Benchers by members of the Bar at four quinquennial elections." Rev. Stat. c. 172, s. 4 amended. Ex-officio benchers.

2. Section 13 of *The Act respecting the Law Society of Upper Canada* is amended by adding the following subsection:— Rev. Stat. c. 172, s. 13 amended.

- (2) If among the thirty persons who have the highest number of votes is included any Benchers who by virtue of such election becomes an ex-officio Benchers, the scrutineers shall so report and the thirty other persons having the highest number of votes shall be Benchers of the said Law Society for the next term of five years. Where ex-officio benchers is elected.

3. Section 28 of the said Act is amended by adding there- Rev. Stat. c. 172, s. 28 amended. to the following subsection:—

- (2) The seat of any Benchers who is such ex-officio by reason of having been elected at four quinquennial elections shall be vacated *ipso facto* by his non-attendance at the regular meetings of Convocation for the period of one year, or in the event of his ceasing to pay the usual Solicitors' and Barristers' fees to the Society. Vacating seat of ex-officio benchers for non-attendance.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act to amend the Act respecting the
Law Society of Upper Canada.

First Reading, 3rd day of March, 1910.

Mr. BREWSTER.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Act for the Improvement of Public Highways.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 11 of *The Act for the Improvement of Public Highways*, is amended by adding the following as subsection 2:— 7 Edw. VII.,
c. 16.

- (2) The county council shall, in respect to said roads, have all the rights, powers, benefits and advantages conferred either by by-law or contract or otherwise, upon the local municipality or municipalities having jurisdiction over said roads before said roads were assumed by such county council, and the said county council may sue upon such rights or under such agreements or by-laws in the same manner and to the same extent in every way as the said local municipality or municipalities might have done if such roads had not been adopted as county roads. Powers of
County
Council over
roads
assumed.

No. 209.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act to amend the Act for the Improvement of Public Highways.

1st Reading, 4th day of Mar., 1910.

Mr. ELLIOTT.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Ontario Railway Act, 1906.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Railway Amendment Act, 1910*," and shall be read with and as part of *The Ontario Railway Act, 1906*. Short title.
6 Edw. VII.,
c. 80.

2. Where under the provisions of an agreement between a municipal corporation and a street railway company or any person from whom a street railway company has derived its title, the corporation has become or shall hereafter become entitled to grant to another company or person the right to construct and operate a street railway on any street or part or a street upon which such first mentioned company was authorized or empowered to construct or operate its railway or any part of it, by reason of the failure of such company to construct and operate or to operate its railway thereon, such corporation, instead of granting such right to another company or person, may itself construct, operate and maintain a railway thereon either as a separate and distinct line of railway or as part of any other railway which such corporation owns or operates or has power to construct or operate. Construction and operation of street railway by municipality where corporation may grant right to a company.

3.—(1) A railway company shall not, without having first obtained the permission and approval of the Ontario Railway and Municipal Board, begin the construction of its railway or of any extension of it upon any highway or part of a highway upon which it has authority to construct or extend its railway, and the Board shall have power to withhold its permission and approval whenever it is of opinion that it has not been made to appear that the construction or Railway not to be constructed on highway without sanction of Board.

extension upon such highway or part of a highway is necessary or convenient for the public service, or whenever in the opinion of the Board it is not in the public interest that the railway should be constructed or extended upon such highway or part of a highway.

Application to
street rail-
way.

(2) This section shall apply to a street railway.

No. 210

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Ontario Railway
Act, 1906.

1st Reading, 4th day of Mar., 1910.

Sir JAMES WHITNEY.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Ontario Railway and Municipal Board Act, 1906.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Railway and Municipal Board Amendment Act, 1910.*" Short title.

2. Whenever the Board is of opinion after hearing had upon its own motion or after complaint that the regulations, practices, equipment, appliances or service of any railway company in respect to transportation of persons, freight or property are unjust, unreasonable, unsafe, improper or inadequate, the Board shall determine the just, reasonable, safe, proper and adequate regulations, practices, equipment, appliances or service thereafter to be in force, to be observed and to be used in such transportation of persons, freight, and property and so fix and prescribe the same by order to be served upon the railway company to be bound thereby, and it shall be the duty of the railway company to observe and obey every requirement of every such order and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by its officers, agents and employees. Jurisdiction of Board over railway.

3. Whenever in the opinion of the Board repairs or improvements to or changes in any tracks, switches, terminals or terminal facilities, motive power or any other property or device used by any railway company in or in connection with the transportation of passengers, freight or property ought reasonably to be made thereto in order to promote the security or convenience of the public or of the employees of the company or to secure adequate service or facilities for the transportation of passengers, freight or property, the Board, after a hearing had either upon its own motion or Repairs or improvements in equipment.

after complaint, shall make and serve an order directing such repairs, improvements, changes, or additions to be made within a reasonable time and in a manner to be specified therein, and every railway company shall make all repairs, improvements, changes and additions required of it by any such order within the time and in the manner specified in the order.

Jurisdiction
of Board
over street
railways.

4. Whenever in the opinion of the Board a street railway company

- (a) Does not run cars enough or possess or operate motive power enough reasonably to accommodate the passengers transported or offered for transportation to it, or
- (b) Does not run its cars with sufficient frequency or at a reasonably proper time, or
- (c) Does not run any car upon a reasonable time schedule for the run, or
- (d) Does not provide reasonable routes and services for the accommodation of the public, or
- (e) Does not provide for stopping its cars to take on and discharge its passengers at convenient points or at a sufficient number of points, or
- (f) Does not sufficiently or properly heat and light any of its cars or keep the same clean, or
- (g) Operates any car which is not in proper repair and condition,

the Board shall have power after a hearing had either on its own motion or after complaint to make an order directing the company to increase the number of its cars or its motive power, to change the time for starting any car, to change the time schedule for the run of any car, to require the company to run cars and provide a sufficient service upon any route that the Board may deem necessary for the accommodation of the public, to sufficiently light and heat its cars and keep them clean, to stop its cars to take on and discharge passengers at such points as the Board may deem proper, and to make any other order which the Board may deem necessary to accommodate and transport the passengers transported or offered for transportation, and the company shall be bound to obey every such order according to the exigency thereof.

Powers conferred to be
in addition to
present
powers.

5. The powers conferred by this Act upon the Board shall be in addition to the powers now possessed by it, but shall not interfere with or take away the rights of any municipal corporation under any agreement between the corporation and the company and, unless with the consent of the corporation, shall be exercised subject to such rights.

6. The Board shall have the like power and authority for the enforcement of any order made by it under the provisions of this Act as it now possesses for the enforcement of its orders, and especially the power and authority conferred by sections 20 and 63 of *The Ontario Railway and Municipal Board Act, 1906*. Enforcement of orders.

7. This Act shall be read with and as part of *The Ontario Railway and Municipal Board Act, 1906*, and sections 2, 3, 5 and 6 of this Act shall apply to street railways as well as other railways. Act incorporated with 6 Edw. VII., c. 31.

8. Section 65 of the Act mentioned in the next preceding section is hereby repealed. 6 Edw. VII., c. 31, s. 65 repealed.

9. Subject to the provisions of section 5, the provisions of this Act shall apply notwithstanding any agreement between the company and a municipal corporation or the provisions of any general or special Act relating to the agreement or to the company. Application of Act notwithstanding agreement or special Act.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Ontario Railway
and Municipal Board Act, 1906.

1st Reading, 4th day of Mar., 1910.

Sir JAMES WHITNEY.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty

BILL

An Act respecting the Devolution and Distribution of Estates.

SHORT TITLE, s. 1.	POWERS OF PERSONAL REPRESENTATIVE, ss. 15-22.
INTERPRETATION, s. 2.	Infants' estates, s. 15.
PROPERTY TO DEVOLVE ON PERSONAL REPRESENTATIVE, s. 3.	Real property, s. 16.
PERSONAL REPRESENTATIVE TO BE DEEMED HEIR, s. 4.	Law as to personalty to apply, s. 17.
TRUST ESTATE AND MORTGAGES, s. 5.	Selling and dividing estate, s. 18.
DOWER, s. 6.	Effect of acceptance of share, s. 19.
SALE FREE FROM DOWER AND CURTESY, s. 7.	Protection of purchasers, ss. 20-21.
WIDOW'S PREFERENTIAL SHARE, s. 8.	Leasing and mortgaging, s. 22.
VESTING OF ESTATES IN BENEFICIARIES, s. 9.	DISTRIBUTION OF ASSETS, ss. 23-30.
PERSONAL REPRESENTATIVE UNDER WILL, s. 10.	RULES OF PROCEDURE, s. 31.
CAUTIONS, ss. 11-13.	USE OF AFFIDAVITS, s. 32.
PERSONS ENTITLED TO TAKE AS TENANTS IN COMMON, s. 14.	REPEAL, s. 33.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Devolution of Estates* Short title. Act." R.S.O. 1897, c. 127, s. 1.

2. In this Act "personal representative" shall mean and include an executor, an administrator and an administrator with the will annexed.

Interpretation.
"Personal representative."

3.—(1) All real and personal property which is vested in any person without a right in any other person to take by survivorship, shall on his death, notwithstanding any testamentary disposition, devolve to and become vested in his

Property to devolve on personal representative.

personal representative from time to time, as trustee for the persons by law beneficially entitled thereto, and subject to the payment of his debts, and so far as such property is not disposed of by deed, will, contract or other effectual disposition, the same shall be distributed as personal property not so disposed of is to be distributed according to the provisions of this Act.

(2) This section shall apply to property over which a person executes by will a general power of appointment as if it were property vested in him.

(3) This section shall not apply to estates tail or to the personal property, except chattels real, of any person who at the time of his death is domiciled out of Ontario. See 60-61 V., (Imp.), c. 65, s. 1. *The Land Transfer Act, 1897.*

When personal representatives to be deemed "heirs."

4. When any part of the real property of a deceased person vests in his personal representative under this Act, such personal representative, in the interpretation of any statute of this Province, or in the construction of any instrument to which the deceased was a party, or under which he is interested, shall, while the estate remains in him, be deemed in law his heir, as respects such part, unless a contrary intention appears, but nothing in this section shall affect the beneficial right to any property, or the construction of words of limitation of any estate in or by any deed, will or other instrument. R.S.O. 1897, c. 127, s. 10.

Mortgages, Trust Estates and Dower.

Trust and mortgage estates devolve on personal representatives.

5. Where an estate or interest of inheritance in real property is vested on any trust or by way of mortgage in any person solely the same shall on his death, notwithstanding any testamentary disposition, devolve to and become vested in his executor or administrator in like manner as if the same were personal estate vesting in him and, accordingly, all the like powers for one only of several joint executors or administrators as well as for a single executor or administrator and for all the executors and administrators together to dispose of and otherwise deal with the same shall belong to the deceased's executor or administrator with all the like incidents but subject to all the like rights, equities and obligations as if the same were personal estate vesting in him, and for the purposes of this section the executor or administrator of the deceased shall be deemed in law his heirs and assigns within the meaning of all trusts and powers. Imp. *Conveyancing Act of 1881*, 44 and 45 Vict., c. 41, s. 30.

6.—(1) Nothing in this Act shall take away a widow's ^{Saving as to} right to dower; but a widow may by deed or instrument in writing, attested by at least one witness, elect to take her interest under this Act in her husband's undisposed of real property, in lieu of all claim to dower in respect of the real property of which her husband was at any time seised, or to which at the time of his death he was beneficially entitled; and unless she so elects she shall not be entitled to share in the undisposed of real property. R.S.O. 1897, c. 127, s. 4 (2).

(2) The personal representative of the deceased may by notice in writing require his widow to make her election and if she fails to execute and deliver a deed or instrument of election to him within six months after the service of the notice, she shall be deemed to have elected to take her dower. *New.*

(3) Where there is no legal personal representative of a deceased mortgagor of freehold property it shall be sufficient for the purposes of an action for the foreclosure of the equity of redemption in, or for the sale of, such property that the person beneficially entitled under the last will and testament, if any, of the deceased mortgagor, or under the provisions of this Act, to such property or the proceeds thereof be made defendant to such action, and it shall not be necessary that a legal personal representative of the deceased mortgagor be appointed or be made a defendant thereto unless it shall be otherwise ordered by the Court in which the action is brought or by a Judge thereof; ^{Who to be defendants in action for foreclosure when no personal representative of mortgagor.} Provided always that if ^{Proviso.} during the pendency of such action the equity of redemption devolves upon and becomes vested in a legal personal representative of the mortgagor he shall be made a party to the action.

(4) In Subsection 3 the word "mortgagor" shall include ^{"Mortgagor" meaning of.} the assignee of a mortgagor and any person entitled to or interested in the equity of redemption. 6 Edw. VII. c. 23, s. 1.

7.—(1) Where the personal representative desires to ^{Application for order allowing sale of land by personal representatives free of dower or curtesy.} sell any real property devolving upon him free from curtesy or dower he may apply to a Judge of the High Court, who may, in a summary way, and upon notice, to be served personally unless the Judge otherwise directs, order that the same shall be sold free from the right of the tenant by the curtesy or dowress; and in making such order regard shall be had to the interests of all parties.

(2) If a sale free from such curtesy or dower is ordered all the right and interest of such tenant by the curtesy

or dowress shall pass thereby; and no conveyance or release thereof to the purchaser shall be required; and the purchaser, his heirs and assigns, shall hold the real property freed and discharged from the estate or interest of such tenant by the curtesy or dowress.

(3) The Judge may direct the payment of such sum in gross out of the purchase money to the person entitled to curtesy or dower as he may deem, upon the principles applicable to life annuities, a reasonable satisfaction for such estate or interest; or may direct the payment to the person entitled of an annual sum, or of the income or interest to be derived from the purchase money or any part thereof, as he may deem just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as he may deem necessary. R.S.O. 1897, c. 127, s. 11.

Widow
entitled to
whole estate
not exceeding
\$1,000.

S.—(1) The real and personal property of every man dying intestate and leaving a widow but no issue shall, where the net value of such real and personal property does not exceed \$1,000, belong to his widow absolutely and exclusively.

Where estate
exceeds.
\$1,000.

(2) Where the net value exceeds \$1,000, the widow shall be entitled to \$1,000, part thereof, absolutely and exclusively and shall have a charge thereon for such sum, with interest thereon from the date of the death of the intestate at 4 per cent. per annum until payment.

Widow's share
in remainder
of estate.

(3) The provision for the widow made by this section shall be in addition and without prejudice to her interest and share in the residue of the real and personal property of the intestate remaining after payment of such sum of \$1,000 and interest, in the same way as if such residue had been the whole of the intestate's real and personal property, and this section had not been enacted. R.S.O. 1897, c. 127, s. 12.

(4) Where the estate consists in whole or in part of real property this section shall apply only if the widow elects under section 6 to take an interest in her husband's undisposed of real property in lieu of dower.

(5) In this section "net value" shall mean the value of the real and personal property after payment of the charges thereon and the debts, funeral expenses and expenses of administration, including succession duty.

VESTING OF ESTATE AND CAUTIONS.

9.—(1) Real property not disposed of, divided between the persons beneficially entitled thereto under the provisions of section 18 or conveyed by the personal representative within three years after the death of the deceased shall, subject to *The Land Titles Act* in the case of land registered under that Act, at the expiration of that period, whether probate or letters of administration have or have not been taken, be thenceforward vested in the persons beneficially entitled thereto under the will or upon the intestacy or their assigns without any conveyance by the personal representative unless such personal representative, if any, has registered, in the proper registry or land titles office, a Caution, Form 1, under his hand, and if such caution is so registered such real property or the part thereof mentioned therein shall not be so vested for twelve months from the time of registration of such Caution or of the last Caution if more than one are registered. R.S.O. 1897, c. 127, s. 13 (1); 2 Edw. VII., c. 17, s. 3; 6 Edw. VII., c. 23, s. 2.

Real estate not disposed of within 3 years to vest in heirs unless Caution registered.

Rev. Stat. c. 138.

(2) The execution of every Caution shall be verified by the affidavit of a subscribing witness in the manner prescribed by *The Registry Act*, or *The Land Titles Act*, as the case may be.

Rev. Stat. cc. 136, 138.

(3) Where the Caution specifies certain parcels of land it shall be effectual as to those parcels only.

If Caution specifies lands these only affected.

(4) The personal representative before the expiration of the twelve months may register a certificate, Form 2, withdrawing the Caution; or withdrawing the same as to any parcel of land specified in such certificate and upon registration of the certificate the property or the parcel specified shall be treated as if the Caution had expired.

Withdrawal of Caution.

(5) The certificate of withdrawal shall be verified by an affidavit of a subscribing witness, Form 3.

Certificate of withdrawal to be verified on oath.

(6) Before a Caution expires it may be re-registered, and so on from time to time as long as the personal representative deems it necessary, and every Caution shall continue in force for twelve months from the time of its registration or re-registration. R.S.O. 1897, c. 127, s. 13 (2-7).

Renewal of Caution.

10. Nothing in section 9 shall derogate from any right possessed by an executor or administrator with the will annexed under a will or under *The Trustee Act* or from any right possessed by a trustee under a will. 2 Edw. VII., c. 17, s. 1.

Section 9 not to affect the rights of executor, etc.

Registration
of Caution
after 3 years
from death
of testator.

Proviso.

11.—(1) Where a personal representative has not registered a Caution within the proper time after the death of the deceased, or has not re-registered a Caution within the proper time, he may register or re-register the Caution, as the case may be, provided he registers therewith:—

- (a) The affidavit of execution;
- (b) A further affidavit stating that he finds or believes that it is or may be necessary for him to sell the real property of the deceased or the part thereof mentioned in the Caution, under his powers and in fulfilment of his duties;
- (c) The consent in writing of any adult and of the Official Guardian on behalf of any infant whose property or interest would be affected; and an affidavit verifying such consent; or
- (d) In the absence and in lieu of such consent, an order of a Judge of the High Court or of the County or District Court of the county or district wherein the property or some part thereof is situate, or the certificate of the Official Guardian authorizing the Caution to be registered, or re-registered, which order or certificate the Judge or Official Guardian may make with or without notice on such evidence as satisfies him of the propriety of permitting the Caution to be registered or re-registered; and the order or certificate to be registered shall not require verification and shall not be rendered null by any defect of form or otherwise. R.S.O. 1897, c. 127, s. 14; 2 Edw. VII., c. 17, s. 10.

Application of
this section.

(2) This section shall extend to cases where a grant of probate of the will or of administration to the estate of the deceased may not have been made within the period after the death of the testator or intestate within which a Caution is required to be registered. 2 Edw. VII., c. 17, s. 4.

Effect of
registration.

(3) Where a Caution is registered or re-registered under the authority of this section, it shall have the same effect as a Caution registered within the proper time after the death of the deceased and of vesting or re-vesting, as the case may be, the real property of the deceased in his personal representative, save as to persons who in the meantime have acquired rights for valuable consideration from or through any person beneficially entitled; and save also and subject to any equities of any non-consenting person

beneficially entitled or person claiming under him, for improvements made after the time within which the personal representative might, without any consent, order or certificate have registered or re-registered a Caution, if his real property is afterwards sold by the personal representative. R.S.O. 1897, c. 127, s. 15; 2 Edw. VII., c. 17, s. 11.

(4) Where there are two or more personal representatives, it shall be sufficient if any Caution or the affidavit mentioned in clause (b) of subsection 1 is signed or made by one of such personal representatives. Signature of one personal representative sufficient.

12. Where a Caution has been registered or re-registered under the authority of any enactment repealed and not re-enacted by this Act and is still in force, such Caution shall have the same effect as if such enactment had not been repealed and may be registered in the manner provided by section 11. Effect of repealing enactment.

13. Any person beneficially entitled to any real property affected by the registration or re-registration of a Caution, may apply to a Judge of the High Court to vacate such registration or re-registration, and the Judge, if satisfied that the vesting of any such real property in such person or of any property of the deceased in any other of the persons beneficially entitled ought not to be delayed may order that such registration or re-registration be vacated as to such property; and every Caution, the registration or re-registration of which is so vacated, shall thereafter cease to operate. Vacating Caution.

14. Where real property becomes vested under this Act in two or more persons beneficially entitled under this Act, they shall take as tenants in common in proportion to their respective rights, unless in the case of a devise they take otherwise under the provisions of the will of the deceased. Land vesting in two or more persons
See R.S.O. 1897, c. 127, s. 56.

POWERS OF PERSONAL REPRESENTATIVE.

15.—(1) Where an infant is interested in real property which but for this Act would not devolve on the personal representative, no sale or conveyance shall be valid under this Act without the written approval of the Official Guardian appointed under *The Judicature Act.* or, in the absence of such consent or approval, without an order of a Judge of the High Court. Sales where infants interested. Rev. Stat. c. 51.

(2) The Supreme Court may appoint the Local Judge of any county or district or the Local Master therein, as Local Guardian of Infants, in such county or district during the pleasure of the Court, with authority to give such

written approval instead of the Official Guardian; and the Official Guardian and Local Guardian shall be subject to such rules as the Supreme Court may make in regard to their authority and duties under this Act. R.S.O. 1897, c. 127, s. 8.

Power of personal representative over real property.

16. Except as herein otherwise provided, the personal representative of a deceased person shall have power to dispose of and otherwise deal with the real property vested in him by virtue of this Act, with the like incidents, but subject to the like rights, equities, and obligations, as if the same were personal property vested in him. R.S.O. 1897, c. 127, s. 9; 2 Edw. VII., c. 17, s. 9.

Real property to be dealt with as if it were personal property.

17. The enactments and rules of law relating to the effect of probate or letters of administration as respects personal property and as respects the dealings with personal property before probate or administration and as respects the payment of costs of administration and other matters in relation to the administration of personal estate and the powers, rights, duties and liabilities of personal representatives in respect of personal estate shall apply to real property so far as the same are applicable as if that real property were personal property, vesting in them, save that it shall not be lawful for some or one only of several joint personal representatives without the authority of the High Court or a Judge thereof to sell or transfer real property. 60-61 V., c. 65, s. 2 (2) Imp.

Powers of executors and administrators as to selling and conveying real estate.

18.—(1) The powers of sale conferred by this Act on a personal representative may be exercised for the purpose not only of paying debts, but also of distributing or dividing the estate among the persons beneficially entitled thereto, whether there are or are not debts, and in no case shall it be necessary that the persons beneficially entitled shall concur in any such sale except where it is made for the purpose of distribution only.

Concurrence of heirs and devisees.

(2) No sale of any such real property made for the purpose of distribution only shall be valid as respects any person beneficially entitled thereto unless he concurs therein: Provided always that where a lunatic is beneficially entitled or where there are other persons beneficially entitled whose consent to the sale is not obtained by reason of their place of residence being unknown or where in the opinion of the Official Guardian it would be inconvenient to require the concurrence of such persons, he may, upon proof satisfactory to him that such sale is in the interest and to the advantage of the estate of such deceased person and the persons beneficially interested therein, approve such

Proviso as to lunatics and non-concurring heirs and devisees.

sale on behalf of such lunatic and non-concurring persons, and any such sale made with the written approval of the Official Guardian shall be valid and binding upon such lunatic and non-concurring persons; and for this purpose the Official Guardian shall have the same powers and duties as he has in the case of infants; and provided also that in any case the High Court or a Judge thereof may dispense with the concurrence of the persons beneficially entitled or any or either of them.

(3) The personal representative shall also have power with the concurrence of the adult persons beneficially entitled thereto, and with the written approval of the Official Guardian on behalf of infants or lunatics, if any so entitled, to divide the estate of the deceased person or any part thereof among the persons beneficially entitled thereto according to their respective shares and interests therein.

Powers of executors and administrators as to dividing estate among persons entitled.

(4) Upon the application of the personal representative of any person beneficially entitled the High Court or a Judge thereof may before the expiration of three years from the death of the deceased, direct the personal representative to divide or distribute the estate or any part thereof, among the persons beneficially entitled according to their respective rights and interests therein, and to convey the same accordingly. *New.*

Court may order distribution within three years from death.

(5) The power of division conferred by subsection 3 may also be exercised, although all the persons beneficially interested do not concur, with the written approval of the Official Guardian, which may be given under the same conditions and with the like effect as in the case of a sale under subsection 2.

(6) Where the Inspector of Prisons and Public Charities is the Statutory Committee under the provisions of Chapter 317 of the Revised Statutes of a lunatic beneficially entitled, it shall be the duty of the Official Guardian to notify the Inspector of any sale to which he has consented and he may by leave of the High Court or a Judge thereof pay to the Inspector the share of such lunatic or such part thereof as the Court or Judge may direct. *New.*

Where lunatic beneficially entitled.

(7) This section shall not apply to an administrator where the letters of administration are limited to the personal property, exclusive of the real property, and shall not derogate from any right possessed by a personal representative independently of this Act, but an executor shall not exercise the powers conferred by this section until he has obtained probate of the will unless with the approval of the High Court or a Judge thereof. 6 Edw. VII., c. 23, s. 3.

Section not to apply to administrators of personal estate only.
Provision as to executor who has not obtained probate.

Effect of
accepting
share of pur-
chase money.

19. The acceptance by an adult of his share of the purchase money in the case of a sale by a personal representative which has been made without the written approval of the Official Guardian, where such approval is required, shall be a confirmation of the sale as to him. 2 Edw. VII., c. 17, s. 7.

Bona fide pur-
chasers of
estate to hold
same free
from debts.

20. A person purchasing in good faith and for value real property from the personal representative in manner authorized by this Act shall be entitled to hold the same freed and discharged from any debts or liabilities of the deceased owner except such as are specifically charged thereon otherwise than by his will, and from all claims of the persons beneficially entitled thereto, and shall not be bound to see to the application of the purchase money. R.S.O. 1897, c. 127, s. 19.

Bona fide pur-
chasers of
estate from
devisee to
hold same free
from debts.

21.—(1) A person purchasing real property in good faith and for value from a person beneficially entitled, to whom it has been conveyed by the personal representative by leave of the High Court or a Judge thereof shall be entitled to hold the same freed and discharged from any debts and liabilities of the deceased owner, except such as are specifically charged thereon otherwise than by his will; nothing in this section shall affect the rights of creditors as against the personal representative personally, or as against any person beneficially entitled to whom real property of a deceased owner has been conveyed by the personal representative. R.S.O. 1897, c. 127, s. 20.

Proviso.

Lands which
vest in bene-
ficiary under
s. 9 to remain
liable to
debts.

(2) Real property which becomes vested in the person beneficially entitled thereto under section 9, shall continue to be liable to answer the debts of the deceased owner so long as it remains vested in such person or in any person claiming under him not being a purchaser in good faith and for valuable consideration, as it would have been if it had remained vested in the personal representative, and in the event of a sale thereof in good faith and for value by such person beneficially entitled he shall be personally liable for such debts to the extent of the proceeds of such real property. 2 Edw. VII., c. 1, s. 4.

Beneficiary to
be personally
liable for
debts of
deceased to
extent of
estate.

Powers of
personal
representative
as to leasing
and mort-
gaging.

22.—(1) The powers of a personal representative under this Act shall include

- (a) Power to lease from year to year while the real property remains vested in him.

(b) Power with the approval of the High Court or a Judge thereof to lease for a longer term.

(c) Power to mortgage for the payment of debts.

(2) The written approval of the Official Guardian to mortgaging shall be required where it would be required if the real property were being sold. 2 Edw. VII., c. 17, s. 5.

(3) A purchaser in good faith and for value of real property of a deceased owner which has become vested under the provisions of section 9 in a person beneficially entitled thereto, shall be entitled to hold it freed and discharged from the claims of creditors of the deceased owner except such of them of which he had notice at the time of his purchase. 2 Edw. VII., c. 1, s. 5.

(4) Nothing in subsection 3 shall affect the right of the creditor against the personal representative personally where he has permitted the real property to become vested in the person beneficially entitled to the prejudice of the creditor or against the person beneficially entitled. *New.*

DISTRIBUTION OF ASSETS.

23.—(1) An illegitimate child or relative shall not share Effect of illegitimacy. under any of the provisions of this Act.

(2) A person born out of matrimony does not become legitimate by the subsequent marriage of his parents. R.S.O. 1897, c. 127, s. 58, and c. 340, s. 1.

Advancement.

24.—(1) If any child of an intestate has been advanced Cases of children who have been advanced by settlement, etc. by him by settlement or portion of real or personal property, or both, and the same has been so expressed by the intestate in writing, or so acknowledged in writing by the child, the value thereof shall be reckoned, for the purposes of this section only, as part of the real and personal property of such intestate to be distributed under the provisions of this Act; and if such advancement is equal to or greater than the amount of the share which such child would be entitled to receive of the real and personal property of the deceased, as so reckoned, then such child and his descendants shall be excluded from any share in the real and personal property of the intestate. R.S.O. 1897, c. 127, s. 60.

If such advancement be not equal.

(2) If such advancement is less than such share, such child and his descendants shall be entitled to so much only of the real and personal property as is sufficient to make all the shares of the children in such real and personal property and advancement to be equal, as nearly as can be estimated. R.S.O. 1897, c. 127, s. 61.

Value of property advanced, how estimated.

(3) The value of any real or personal property so advanced shall be deemed to be that, if any, which has been acknowledged by the child by an instrument in writing; otherwise such value shall be estimated according to the value of the property when given. R.S.O. 1897, c. 127, s. 62.

Education, etc., not advancement.

(4) The maintaining or educating, or the giving of money to a child without a view to a portion or settlement in life shall not be deemed an advancement within the meaning of this Act. R.S.O. 1897, c. 127, s. 63.

Intestate Married Women.

Distribution of property of married woman dying intestate.

25.—(1) The personal property, whether separate or otherwise, of a married woman in respect of which she dies intestate, shall be distributed as follows: One-third to her husband if she leaves issue, and one-half if she leaves no issue, and subject thereto shall devolve as if her husband had pre-deceased her. R.S.O. 1897, c. 127, s. 5.

Saving as to husband's interest in property of wife.

(2) A husband who, if this Act had not been passed, would be entitled to an interest as tenant by the curtesy in real property of his wife, may by deed or instrument in writing executed, and attested by at least one witness, and delivered to the personal representative, if any, or if there is none, deposited in the office of the Surrogate Clerk at Toronto, within six months after his wife's death, elect to take such interest in the real and personal property of his wife as he would have taken if this Act had not been passed, in which case the husband's interest therein shall be ascertained in all respects as if this Act had not been passed, and he shall be entitled to no further interest thereunder. R.S.O. 1897, c. 127, s. 1, subsec. 3.

Administration of Real Property.

Real property to be administered as personalty.

26. In the administration of the assets of a deceased person, his real property shall be administered in the same manner, subject to the same liability for debts, costs and expenses and with the same incidents as if it were personal property, but nothing in this section shall alter or effect the order in which real and personal assets are now applicable to or towards the payment of funeral and testamentary

expenses, debts or legacies, or the liability of real property to be charged with the payment of legacies. 60 and 61 Vict. (Imp.), c. 65. s. 2 (3), *part*.

Payment of Debts out of Residue.

27. Subject to provisions of section 38 of *The Wills Act*, the real and personal property of a deceased person comprised in any residuary devise or bequest shall, except so far as a contrary intention appears from his will or any codicil thereto, be applicable rateably, according to their respective values, to the payment of his debts, and the cost and expenses of administration. R.S.O. 1897, c. 127, s. 7.

Application of property in payment of debts.

Distribution of Assets.

28. Subject to the provisions of this Act the personal property of a person dying intestate shall be distributed as follows, that is to say, one third to the wife of the intestate and all the residue by equal portions among the children of the intestate and such persons as legally represent such children in case any of them have died in his lifetime, and if there are no children or any legal representatives of them then one half of the personal property shall be allotted to the wife, and the residue thereof shall be distributed equally, to every of the next of kindred of the intestate who are of equal degree and those who represent them and for the purpose of this section the father and the mother and the brothers and sisters of the intestate shall be deemed of equal degree: but there shall be no representations admitted among collaterals after brothers' and sisters' children and if there is no wife then all such personal property shall be distributed equally among the children, and if there is no child then to the next of kindred in equal degree of or unto the intestate and their legal representatives and in no other manner. R.S.O. 1897, c. 335, ss. 2 and 3.

Distribution of personal estate.

29. If after the death of a father any of his children die intestate without wife or children in the lifetime of the mother, every brother and sister and the representatives of them shall have an equal share with her, anything in section 28 to the contrary notwithstanding. R.S.O. 1897, c. 335, s. 5.

Children share with mother.

30. Subject to the provisions of section 38 of *The Trustee Act*, no such distribution shall be made until after one year from the death of the intestate, and every person to whom in distribution a share shall be allotted shall, if any debt owing by the intestate shall be afterwards sued for and re-

Distribution not to be made for one year.

covered or otherwise duly made to appear, refund and pay back to the personal representative his rateable part of that debt and of the costs of suit and charges of the personal representative by reason of such debt out of the part or share so allotted to him, thereby to enable the personal representative to pay and satisfy such debt, and shall give bond with sufficient sureties that he will do so. R.S.O. 1897, c. 335, s. 4.

GENERAL PROVISIONS.

Rules of procedure.

31.—(1) The Official Guardian may, with the approval of the Lieutenant-Governor in Council, or of the Judges of the Supreme Court, make Rules regulating the practice and procedure to be followed in all proceedings under this Act, in which his privity, consent or approval is required, and may frame a tariff of the fees to be allowed and paid to solicitors for services rendered in such proceedings.

(2) Such Rules and tariff when so approved shall be published in the *Ontario Gazette*, and shall thereupon have the force of law; and the same shall be laid before the Assembly at the next session after the publication thereof.

Appointment of Deputy Official Guardian pro tem.

(3) The Lieutenant-Governor in Council may appoint a Deputy *pro tempore* of the Official Guardian for the purposes of this Act who shall have all the powers of the Official Guardian for such purposes. R.S.O. 1897, c. 127, s. 21.

Affidavits.

32. Affidavits may be used in proceedings taken under this Act. R.S.O. 1897, c. 127, s. 21.

Repeal.

33. Chapter 127 of The Revised Statutes, except sections 23 to 55, are repealed and Chapter 335 of the Revised Statutes is also repealed.

FORM 1.

THE DEVOLUTION OF ESTATES ACT.

I, _____, executor of (or administrator, with the will annexed of, or administrator of) _____, who died on or about the _____ day of _____ 19____, certify that it may be necessary for me under my powers and in fulfilment of my duty as executor (or administrator) to sell the real property or the said _____ or part thereof (or the caution may specify any particular part or parcel) and of this all persons concerned are hereby required to take notice.

FORM 2.

THE DEVOLUTION OF ESTATES ACT.

I, _____, executor (or *administrator*) of
 hereby withdraw the caution heretofore registered with
 respect to the real property of _____ (or as the case may be).

FORM 3.

THE DEVOLUTION OF ESTATES ACT.

I, _____, of, etc., make oath and say I am well
 acquainted with _____ named in the above certificate;
 that I was present and did see the said certificate signed by the
 said _____; that I am a subscribing witness to the said
 certificate and I believe the said _____ is the person who regis-
 tered the caution referred to in the said certificate.

Sworn, etc

No. 212.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act respecting the Devolution and
Distribution of Estates.

First Reading 7th day of March, 1910.

Mr. LUCAS.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting the Devolution and Distribution of Estates.

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DISTRIBUTION OF ASSETS, ss. 27-32.

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REPEAL, s. 35.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Devolution of Estates* short title. Act." R.S.O. 1897, c. 127, s. 1.

2. In this Act

(a) "Lunatic" shall include an idiot and a person of ^{Interpreta-} unsound mind. tion.

(b) "Personal representative" shall mean and include an executor, an administrator, and an administrator with the will annexed.

Property to devolve on personal representative.

3.—(1) All real and personal property which is vested in any person without a right in any other person to take by survivorship, shall on his death, whether testate or intestate, and notwithstanding any testamentary disposition, devolve to and become vested in his personal representative from time to time, as trustee for the persons by law beneficially entitled thereto and, subject to the payment of his debts, and so far as such property is not disposed of by deed, will, contract or other effectual disposition, the same shall be administered, dealt with and distributed as if it were personal property not so disposed of.

(2) This section shall apply to property over which a person executes by will a general power of appointment as if it were property vested in him.

(3) This section shall not apply to estates tail or to the personal property, except chattels real, of any person who at the time of his death is domiciled out of Ontario. See 60-61 V., (Imp.), c. 65, s. 1. *The Land Transfer Act, 1897*; R.S.O. 1897, c. 127, s. 3; 2 Edw. VII. c. 1, s. 3.

Real property to be dealt with as if it were personal property.

4. The enactments and rules of law relating to the effect of probate or letters of administration as respects personal property and as respects the dealings with personal property before probate or administration and as respects the payment of costs of administration and other matters in relation to the administration of personal estate and the powers, rights, duties and liabilities of personal representatives in respect of personal estate shall apply to real property vesting in them, so far as the same are applicable as if that real property were personal property, save that it shall not be lawful for some or one only of several joint personal representatives without the authority of the High Court or a Judge thereof to sell or transfer real property. 60-61 V., c. 65, s. 2 (2) Imp.

Administration of Real Property.

Real property to be administered as personalty.

5. Subject to the other provisions of this Act, in the administration of the assets of a deceased person, his real property shall be administered in the same manner, subject to the same liability for debts, costs and expenses and with the same incidents as if it were personal property, but nothing in this section shall alter or affect as respects real or personal property of which the deceased has made a testamentary disposition the order in which real and personal assets are now applicable to the payment of funeral and testamentary expenses, the costs and expenses of administration, debts or legacies, or the liability of real property to be charged with the payment of legacies. 60 and 61 Vict. (Imp.), c. 65, s. 2 (3).

Payment of Debts out of Residue.

6. Subject to provisions of section 38 of *The Wills Act*, the real and personal property of a deceased person comprised in any residuary devise or bequest shall, except so far as a contrary intention appears from his will or any codicil thereto, be applicable rateably, according to their respective values, to the payment of his debts, funeral and testamentary expenses and the cost and expenses of administration. R.S.O. 1897, c. 127, s. 7.

Application of property in payment of debts.

7. When any part of the real property of a deceased person vests in his personal representative under this Act, such personal representative, in the interpretation of any statute of this Province, or in the construction of any instrument to which the deceased was a party, or under which he is interested, shall, while the estate remains in him, be deemed in law his heir, as respects such part, unless a contrary intention appears, but nothing in this section shall affect the beneficial right to any property, or the construction of words of limitation of any estate in or by any deed, will or other instrument. R.S.O. 1897, c. 127, s. 10.

When personal representatives to be deemed "heirs."

Mortgages, Trust Estates and Dower.

8. Where an estate or interest of inheritance in real property is vested on any trust or by way of mortgage in any person solely the same shall on his death, notwithstanding any testamentary disposition, devolve to and become vested in his executor or administrator in like manner as if the same were personal estate vesting in him and, accordingly, all the like powers for one only of several joint executors or administrators as well as for a single executor or administrator and for all the executors and administrators together to dispose of and otherwise deal with the same shall belong to the deceased's executor or administrator with all the like incidents but subject to all the like rights, equities and obligations as if the same were personal estate vesting in him, and for the purposes of this section the executor or administrator of the deceased shall be deemed in law his heirs and assigns within the meaning of all trusts and powers. *Imp. Conveyancing Act of 1881*, 44 and 45 Vict., c. 41, s. 30.

Trust and mortgage estates devolve on personal representatives.

9. —(1) Nothing in this Act shall take away a widow's right to dower; but a widow may by deed or instrument in writing, attested by at least one witness, elect to take her interest under this Act in her husband's undisposed of real property, in lieu of all claim to dower in respect of the real property of which her husband was at any time seised, or to which at the time of his death he was beneficially en-

Saving as to dower.

titled; and unless she so elects she shall not be entitled to share in the undisposed of real property. R.S.O. 1897, c. 127, s. 4 (2).

(2) The personal representative of the deceased may by notice in writing require his widow to make her election and if she fails to execute and deliver a deed or instrument of election to him within six months after the service of the notice, she shall be deemed to have elected to take her dower. *New.*

(3) Where the widow is an infant or a lunatic the right of election may be exercised on her behalf by the Official Guardian with the approval of a Judge of the High Court, or by some person authorized by a Judge of the High Court to exercise it; and the Official Guardian or the person so authorized may for and in the name of the widow give all notices and do all acts necessary or incidental to the exercise of such right.

Who to be
defendants
in action for
foreclosure
where no per-
sonal repre-
sentative
of mortgagor.

10. (1) Where there is no legal personal representative of a deceased mortgagor of freehold property it shall be sufficient for the purposes of an action for the foreclosure of the equity of redemption in, or for the sale of, such property that the person beneficially entitled under the last will and testament, if any, of the deceased mortgagor, or under the provisions of this Act, to such property or the proceeds thereof be made defendant to such action, and it shall not be necessary that a legal personal representative of the deceased mortgagor be appointed or be made a defendant thereto unless it shall be otherwise ordered by the Court in which the action is brought or by a Judge thereof; Provided always that if during the pendency of such action the equity of redemption devolves upon and becomes vested in a legal personal representative of the mortgagor he shall be made a party to the action.

Proviso.

"Mortgagor"
meaning of.

(2) In Subsection 1 the word "mortgagor" shall include the assignee of a mortgagor and any person entitled to or interested in the equity of redemption. 6 Edw. VII. c. 23, s. 1.

Application
for order
allowing sale
of land by
personal rep-
resentatives
free of dower
or curtesy.

11.—(1) Where the personal representative desires to sell any real property devolving upon him free from curtesy or dower he may apply to a Judge of the High Court, who may, in a summary way, and upon notice, to be served personally unless the Judge otherwise directs, order that the same shall be sold free from the right of the tenant by the curtesy or dowress; and in making such order regard shall be had to the interests of all parties.

(2) If a sale free from such curtesy or dower is ordered all the right and interest of such tenant by the curtesy or dowress shall pass thereby; and no conveyance or release thereof to the purchaser shall be required; and the purchaser, his heirs and assigns, shall hold the real property freed and discharged from the estate or interest of such tenant by the curtesy or dowress.

(3) The Judge may direct the payment of such sum in gross out of the purchase money to the person entitled to curtesy or dower as he may deem, upon the principles applicable to life annuities, a reasonable satisfaction for such estate or interest; or may direct the payment to the person entitled of an annual sum, or of the income or interest to be derived from the purchase money or any part thereof, as he may deem just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as he may deem necessary. R.S.O. 1897, c. 127, s. 11.

12.—(1) The real and personal property of every man dying intestate and leaving a widow but no issue shall, where the net value of such real and personal property does not exceed \$1,000, belong to his widow absolutely and exclusively. Widow entitled to whole estate not exceeding \$1,000.

(2) Where the net value exceeds \$1,000, the widow shall be entitled to \$1,000, part thereof, absolutely and exclusively and shall have a charge thereon for such sum, with interest thereon from the date of the death of the intestate at 4 per cent. per annum until payment. Where estate exceeds \$1,000.

(3) The provision for the widow made by this section shall be in addition and without prejudice to her interest and share in the residue of the real and personal property of the intestate remaining after payment of such sum of \$1,000 and interest, in the same way as if such residue had been the whole of the intestate's real and personal property, and this section had not been enacted. R.S.O. 1897, c. 127, s. 12. Widow's share in remainder of estate.

(4) Where the estate consists in whole or in part of real property this section shall apply only if the widow elects under section 6 to take an interest in her husband's undisposed of real property in lieu of dower.

(5) In this section "net value" shall mean the value of the real and personal property after payment of the charges thereon and the debts, funeral expenses and expenses of administration, including succession duty.

Real estate not disposed of within 3 years to vest in heirs unless Caution registered.

Rev. Stat. c. 138.

13.—(1) Real property not disposed of, conveyed to, divided or distributed among the persons beneficially entitled thereto under the provisions of section 21 by the personal representative within three years after the death of the deceased shall, subject to *The Land Titles Act* in the case of land registered under that Act, at the expiration of that period, whether probate or letters of administration have or have not been taken, be thenceforward vested in the persons beneficially entitled thereto under the will or upon the intestacy or their assigns without any conveyance by the personal representative unless such personal representative, if any, has registered, in the proper registry or land titles office, a Caution, Form 1, under his hand, and if such caution is so registered such real property or the part thereof mentioned therein shall not be so vested for twelve months from the time of registration of such Caution or of the last Caution if more than one are registered. R.S.O. 1897, c. 127, s. 13 (1); 2 Edw. VII., c. 17, s. 3; 6 Edw. VII., c. 23, s. 2.

Rev. Stat. cc. 136, 138.

(2) The execution of every Caution shall be verified by the affidavit of a subscribing witness in the manner prescribed by *The Registry Act*, or *The Land Titles Act*, as the case may be.

If Caution specifies lands these only affected.

(3) Where the Caution specifies certain parcels of land it shall be effectual as to those parcels only.

Withdrawal of Caution.

(4) The personal representative before the expiration of the twelve months may register a certificate, Form 2, withdrawing the Caution; or withdrawing the same as to any parcel of land specified in such certificate and upon registration of the certificate the property or the parcel specified shall be treated as if the Caution had expired.

Certificate of withdrawal to be verified on oath.

(5) The certificate of withdrawal shall be verified by an affidavit of a subscribing witness, Form 3.

Renewal of Caution.

(6) Before a Caution expires it may be re-registered, and so on from time to time as long as the personal representative deems it necessary, and every Caution shall continue in force for twelve months from the time of its registration or re-registration. R.S.O. 1897, c. 127, s. 13 (2-7).

Section 13, not to affect the rights of executors, etc.

14. Nothing in section 13 shall derogate from any right possessed by an executor or administrator with the will annexed under a will or under *The Trustee Act* or from any right possessed by a trustee under a will. 2 Edw. VII., c. 17, s. 1.

15.—(1) Where a personal representative has not registered a Caution within the proper time after the death of the deceased, or has not re-registered a Caution within the proper time, he may register or re-register the Caution, as the case may be, provided he registers therewith:—

Registration of Caution after 3 years from death of testator.
Proviso.

(a) The affidavit of execution;

(b) A further affidavit stating that he finds or believes that it is or may be necessary for him to sell the real property of the deceased or the part thereof mentioned in the Caution, under his powers and in fulfilment of his duties; and as far as they are known to him, the names of all persons beneficially interested in the real property, and whether any, and if so which of them, are infants or lunatics;

(c) The consent in writing of every adult and of the Official Guardian on behalf of every infant and lunatic whose property or interest would be affected; and an affidavit verifying such consent; or

(d) In the absence and in lieu of such consent, an order of a Judge of the High Court or of the County or District Court of the county or district wherein the property or some part thereof is situate, or the certificate of the Official Guardian authorizing the Caution to be registered, or re-registered, which order or certificate the Judge or Official Guardian may make with or without notice on such evidence as satisfies him of the propriety of permitting the Caution to be registered or re-registered; and the order or certificate to be registered shall not require verification and shall not be rendered null by any defect of form or otherwise. R.S.O. 1897, c. 127, s. 14; 2 Edw. VII., c. 17, s. 10.

(2) This section shall extend to cases where a grant of probate of the will or of administration to the estate of the deceased may not have been made within the period after the death of the testator or intestate within which a Caution is required to be registered. 2 Edw. VII., c. 17, s. 4.

Application of this section.

(3) Where a Caution is registered or re-registered under the authority of this section, it shall have the same effect as a Caution registered within the proper time after the death of the deceased and of vesting or re-vesting, as the

Effect of registration.

case may be, the real property of the deceased in his personal representative, save as to persons who in the meantime have acquired rights for valuable consideration from or through any person beneficially entitled; and save also and subject to any equities of any non-consenting person beneficially entitled or person claiming under him, for improvements made after the time within which the personal representative might, without any consent, order or certificate have registered or re-registered a Caution, if his real property is afterwards sold by the personal representative. R.S.O. 1897, c. 127, s. 15; 2 Edw. VII., c. 17, s. 11.

Signature of
one personal
representative
sufficient.

(4) Where there are two or more personal representatives, it shall be sufficient if any Caution or the affidavit mentioned in clause (b) of subsection 1 is signed or made by one of such personal representatives.

Effect of
repealing
enactment.

16. Where a Caution has been registered or re-registered under the authority of any enactment repealed and not re-enacted by this Act and is still in force, such Caution shall have the same effect as if such enactment had not been repealed and may be registered in the manner provided by section 11.

Vacating
Caution.

17. Any person beneficially entitled to any real property affected by the registration or re-registration of a Caution, may apply to a Judge of the High Court to vacate such registration or re-registration, and the Judge, if satisfied that the vesting of any such real property in such person or of any property of the deceased in any other of the persons beneficially entitled ought not to be delayed may order that such registration or re-registration be vacated as to such property; and every Caution, the registration or re-registration of which is so vacated, shall thereafter cease to operate.

Land vesting
in two or
more persons.

18. Where real property becomes vested under this Act in two or more persons beneficially entitled under this Act, they shall take as tenants in common in proportion to their respective rights, unless in the case of a devise they take otherwise under the provisions of the will of the deceased. See R.S.O. 1897, c. 127, s. 56.

POWERS OF PERSONAL REPRESENTATIVE.

Sales where
infants inter-
ested.

19.—(1) Where an infant is interested in real property which but for this Act would not devolve on the personal representative, no sale or conveyance shall be valid under this Act without the written approval of the Official Guardian appointed under *The Judicature Act*, or, in the absence of such consent or approval, without an order of a Judge of the High Court.

Rev. Stat.
c. 51.

(2) The Supreme Court may appoint the Local Judge of any county or district or the Local Master therein, as Local Guardian of Infants, in such county or district during the pleasure of the Court, with authority to give such written approval instead of the Official Guardian; and the Official Guardian and Local Guardian shall be subject to such rules as the Supreme Court may make in regard to their authority and duties under this Act. R.S.O. 1897, c. 127, s. 8.

20. Except as herein otherwise provided, the personal representative of a deceased person shall have power to dispose of and otherwise deal with the real property vested in him by virtue of this Act, with the like incidents, but subject to the like rights, equities, and obligations, as if the same were personal property vested in him. R.S.O. 1897, c. 127, s. 9; 2 Edw. VII., c. 17, s. 9.

21.—(1) The powers of sale conferred by this Act on a personal representative may be exercised for the purpose not only of paying debts, but also of distributing or dividing the estate among the persons beneficially entitled thereto, whether there are or are not debts, and in no case shall it be necessary that the persons beneficially entitled shall concur in any such sale except where it is made for the purpose of distribution only.

(2) No sale of any such real property made for the purpose of distribution only shall be valid as respects any person beneficially entitled thereto unless he concurs therein: Provided always that where a lunatic is beneficially entitled or where there are other persons beneficially entitled whose consent to the sale is not obtained by reason of their place of residence being unknown or where in the opinion of the Official Guardian it would be inconvenient to require the concurrence of such persons, he may, upon proof satisfactory to him that such sale is in the interest and to the advantage of the estate of such deceased person and the persons beneficially interested therein, approve such sale on behalf of such lunatic and non-concurring persons, and any such sale made with the written approval of the Official Guardian shall be valid and binding upon such lunatic and non-concurring persons: and for this purpose the Official Guardian shall have the same powers and duties as he has in the case of infants: and provided also that in any case the High Court or a Judge thereof may dispense with the concurrence of the persons beneficially entitled or any or either of them.

Powers of executors and administrators as to dividing estate among persons entitled.

(3) The personal representative shall also have power with the concurrence of the adult persons beneficially entitled thereto, and with the written approval of the Official Guardian on behalf of infants or lunatics, if any so entitled, to convey, divide or distribute the estate of the deceased person or any part thereof among the persons beneficially entitled thereto according to their respective shares and interests therein.

Court may order distribution within three years from death.

(4) Upon the application of the personal representative or of any person beneficially entitled the High Court or a Judge thereof may before the expiration of three years from the death of the deceased, direct the personal representative to divide or distribute the estate or any part thereof to or among the persons beneficially entitled according to their respective rights and interests therein. *New.*

(5) The power of division conferred by subsection 3 may also be exercised, although all the persons beneficially interested do not concur, with the written approval of the Official Guardian, which may be given under the same conditions and with the like effect as in the case of a sale under subsection 2.

Where lunatic beneficially entitled.

(6) Where the Inspector of Prisons and Public Charities is the Statutory Committee under the provisions of Chapter 317 of the Revised Statutes of a lunatic beneficially entitled, it shall be the duty of the Official Guardian to notify the Inspector of any sale to which he has consented and he may by leave of the High Court or a Judge thereof pay to the Inspector the share of such lunatic or such part thereof as the Court or Judge may direct. *New.*

Section not to apply to administrators of personal estate only.

(7) This section shall not apply to an administrator where the letters of administration are limited to the personal property, exclusive of the real property, and shall not derogate from any right possessed by a personal representative independently of this Act, but an executor shall not exercise the powers conferred by this section until he has obtained probate of the will unless with the approval of the High Court or a Judge thereof. 6 Edw. VII., c. 23, s. 3.

Provision as to executor who has not obtained probate.

Effect of accepting share of purchase money.

22. The acceptance by an adult of his share of the purchase money in the case of a sale by a personal representative which has been made without the written approval of the Official Guardian, where such approval is required, shall be a confirmation of the sale as to him. 2 Edw. VII., c. 17, s. 7.

Bona fide purchasers of estate to hold same free from debts.

23. A person purchasing in good faith and for value real property from the personal representative in manner

authorized by this Act shall be entitled to hold the same freed and discharged from any debts or liabilities of the deceased owner except such as are specifically charged thereon otherwise than by his will, and from all claims of the persons beneficially entitled thereto, and shall not be bound to see to the application of the purchase money. R.S.O. 1897, c. 127, s. 19.

24.—(1) A person purchasing real property in good faith and for value from a person beneficially entitled, to whom it has been conveyed by the personal representative by leave of the High Court or a Judge thereof shall be entitled to hold the same freed and discharged from any debts and liabilities of the deceased owner, except such as are specifically charged thereon otherwise than by his will; nothing in this section shall affect the rights of creditors as against the personal representative personally, or as against any person beneficially entitled to whom real property of a deceased owner has been conveyed by the personal representative. R.S.O. 1897, c. 127, s. 20.

Bona fide purchasers of estate from devisee to hold same free from debts.

Proviso.

(2) Real property which becomes vested in the person beneficially entitled thereto under section 13, shall continue to be liable to answer the debts of the deceased owner so long as it remains vested in such person or in any person claiming under him not being a purchaser in good faith and for valuable consideration, as it would have been if it had remained vested in the personal representative, and in the event of a sale thereof in good faith and for value by such person beneficially entitled he shall be personally liable for such debts to the extent of the proceeds of such real property. 2 Edw. VII., c. 1, s. 4.

Lands which vest in beneficiary under s. 13 to remain liable to debts.

Beneficiary to be personally liable for debts of deceased to extent of estate.

25.—(1) The powers of a personal representative under this Act shall include

Powers of personal representative as to leasing and mortgaging.

(a) Power to lease from year to year while the real property remains vested in him.

(b) Power with the approval of the High Court or a Judge thereof to lease for a longer term.

(c) Power to mortgage for the payment of debts.

(2) The written approval of the Official Guardian to mortgaging shall be required where it would be required if the real property were being sold. 2 Edw. VII., c. 17, s. 5.

Rights of purchaser in good faith against claims of creditors.

26.—(1) A purchaser in good faith and for value of real property of a deceased owner which has become vested under the provisions of section 13 in a person beneficially entitled thereto, shall be entitled to hold it freed and discharged from the claims of creditors of the deceased owner except such of them of which he had notice at the time of his purchase. 2 Edw. VII., c. 1, s. 5.

(2) Nothing in subsection 1 shall affect the right of the creditor against the personal representative personally where he has permitted the real property to become vested in the person beneficially entitled to the prejudice of the creditor or against the person beneficially entitled. *New.*

DISTRIBUTION OF ASSETS.

Effect of illegitimacy.

27.—(1) An illegitimate child or relative shall not share under any of the provisions of this Act.

(2) A person born out of matrimony shall not become legitimate by the subsequent marriage of his parents. R.S.O. 1897, c. 127, s. 58, and c. 340, s. 1.

Advancement.

Cases of children who have been advanced by settlement, etc.

28.—(1) If any child of an intestate has been advanced by him by settlement or portion of real or personal property, or both, and the same has been so expressed by the intestate in writing, or so acknowledged in writing by the child, the value thereof shall be reckoned, for the purposes of this section only, as part of the real and personal property of such intestate to be distributed under the provisions of this Act; and if such advancement is equal to or greater than the amount of the share which such child would be entitled to receive of the real and personal property of the deceased, as so reckoned, then such child and his descendants shall be excluded from any share in the real and personal property of the intestate. R.S.O. 1897, c. 127, s. 60.

If such advancement be not equal.

(2) If such advancement is less than such share, such child and his descendants shall be entitled to so much only of the real and personal property as is sufficient to make all the shares of the children in such real and personal property and advancement to be equal, as nearly as can be estimated. R.S.O. 1897, c. 127, s. 61.

Value of property advanced, how estimated.

(3) The value of any real or personal property so advanced shall be deemed to be that, if any, which has been acknowledged by the child by an instrument in writing;

otherwise such value shall be estimated, according to the value of the property when given. R.S.O. 1897, c. 127, s. 62.

(4) The maintaining or educating, or the giving of money to a child without a view to a portion or settlement in life shall not be deemed an advancement within the meaning of this Act. Education, etc., not advancement. R.S.O. 1897, c. 127, s. 63.

Intestate Married Women.

29.—(1) The personal property, whether separate or otherwise, of a married woman in respect of which she dies intestate, shall be distributed as follows: One-third to her husband if she leaves issue, and one-half if she leaves no issue, and subject thereto shall devolve as if her husband had pre-deceased her. Distribution of property of married woman dying intestate. R.S.O. 1897, c. 127, s. 5.

(2) A husband who, if this Act had not been passed, would be entitled to an interest as tenant by the curtesy in real property of his wife, may by deed or instrument in writing executed, and attested by at least one witness, and delivered to the personal representative, if any, or if there is none, deposited in the office of the Surrogate Clerk at Toronto, within six months after his wife's death, elect to take such interest in the real and personal property of his wife as he would have taken if this Act had not been passed, in which case the husband's interest therein shall be ascertained in all respects as if this Act had not been passed, and he shall be entitled to no further interest thereunder. Saving as to husband's interest in property of wife. R.S.O. 1897, c. 127, s. 4, subsec. 3.

Distribution of Assets.

30. Except as in this Act is otherwise provided, the personal property of a person dying intestate shall be distributed as follows, that is to say, one third to the wife of the intestate and all the residue by equal portions among the children of the intestate and such persons as legally represent such children in case any of them have died in his lifetime, and if there are no children or any legal representatives of them then one half of the personal property shall be allotted to the wife, and the residue thereof shall be distributed equally, to every of the next of kindred of the intestate who are of equal degree and those who legally represent them and for the purpose of this section the father and the mother and the brothers and sisters of the intestate shall be deemed of equal degree: but there shall be no representations admitted among collaterals after brothers' and sisters' children and if there is no wife then all such personal property shall be distributed equally among the chil-

dren, and if there is no child then to the next of kindred in equal degree of or unto the intestate and their legal representatives and in no other manner. R.S.O. 1897, c. 335, ss. 2 and 3.

Children share
with mother.

31. If after the death of a father any of his children die intestate without wife or children in the lifetime of the mother, every brother and sister and the representatives of them shall have an equal share with her, anything in section 28 to the contrary notwithstanding. R.S.O. 1897, c. 335, s. 5.

Distribution
not to be made
for one year.

32. Subject to provisions of section 38 of *The Trustee Act*, no such distribution shall be made until after one year from the death of the intestate, and every person to whom in distribution a share shall be allotted shall, if any debt owing by the intestate shall be afterwards sued for and recovered or otherwise duly made to appear, refund and pay back to the personal representative his rateable part of that debt and of the costs of suit and charges of the personal representative by reason of such debt out of the part or share so allotted to him, thereby to enable the personal representative to pay and satisfy such debt, and shall give bond with sufficient sureties that he will do so. R.S.O. 1897, c. 335, s. 4.

GENERAL PROVISIONS.

Rules of pro-
cedure.

33.—(1) The Official Guardian may, with the approval of the Lieutenant-Governor in Council, or of the Judges of the Supreme Court, make Rules regulating the practice and procedure to be followed in all proceedings under this Act, in which his privity, consent or approval is required, and may frame a tariff of the fees to be allowed and paid to solicitors for services rendered in such proceedings.

(2) Such Rules and tariff when so approved shall be published in the *Ontario Gazette*, and shall thereupon have the force of law; and the same shall be laid before the Assembly at the next session after the publication thereof.

Appointment
of Deputy
Official Guar-
dian pro tem.

(3) The Lieutenant-Governor in Council may appoint a Deputy *pro tempore* of the Official Guardian for the purposes of this Act who shall have all the powers of the Official Guardian for such purposes. R.S.O. 1897, c. 127, s. 21.

Affidavits.

34. Affidavits may be used in proceedings taken under this Act. R.S.O. 1897, c. 127, s. 21.

35. Chapter 127 of The Revised Statutes, except sections ^{Repeal.} 22 to 58, are repealed, and Chapter 335 and section 1 of Chapter 340 of the Revised Statutes are also repealed.

FORM 1.

THE DEVOLUTION OF ESTATES ACT.

I, _____, executor of (or *administrator, with the will annexed of, or administrator of*) _____, who died on or about the _____ day of _____ 19____, certify that it may be necessary for me under my powers and in fulfilment of my duty as executor (or *administrator*) to sell the real property of the said _____ or part thereof (or *the caution may specify any particular part or parcel*) and of this all persons concerned are hereby required to take notice.

FORM 2.

THE DEVOLUTION OF ESTATES ACT.

I, _____, executor (or *administrator*) of _____ hereby withdraw the caution heretofore registered with respect to the real property of _____ (or *as the case may be*).

FORM 3.

THE DEVOLUTION OF ESTATES ACT.

I, _____, of, etc., make oath and say I am well acquainted with _____ named in the above certificate; that I was present and did see the said certificate signed by the said _____; that I am a subscribing witness to the said certificate and I believe the said _____ is the person who registered the caution referred to in the said certificate.

Sworn, etc.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL

An Act respecting the Devolution and
Distribution of Estates.

First Reading, 7th day of Murch, 1910.
Second Reading, 8th day of March, 1910.

*(Reprinted as amended by Committee of
Whole House.)*

Mr. Lucas.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Ontario Game and Fisheries Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.—(1) Clause (d) of subsection 1 of section 11 of *The Ontario Game and Fisheries Act* is amended by striking out the word "September" in the second and third lines and substituting therefor the word "October"; and by striking out the word "December" in the third line, and substituting therefor the word "November."

7 Edw. VII.
c. 49, s. 11,
subs. 1,
amended.

Close season
for grouse,
pheasants,
partridge, etc.

(2) Clause (e) of the said subsection is amended by striking out the figure "1st" in the second line and substituting therefor the figures "15th."

Quail, wild
turkey, squir-
rels, etc.

(3) Clause (f) of the said subsection is amended by striking out the figures "30th" in the second line and substituting therefor the figures "15th."

Swans and
geese.

(4) Clause (g) of the said subsection is amended by striking out the figures "1st" and "31st" in the second line and substituting therefor the figures "15th" and "15th" respectively.

Duck.

(5) Clause (i) of the said subsection is amended by striking out the figures "1909" in the last line thereof and substituting therefor the figures "1915."

Capercaillie.

(6) Clause (j) of the said subsection is amended by striking out the figures "31st" in the second line and substituting therefor the figures "15th."

Hares.

(7) Subsection 2 of the said section is amended by adding thereto the following words, "provided that any of these

Cotton-tail
rabbits.

animals killed under this subsection shall be handed over to the nearest officer of the Department for distribution to charitable institutions."

7 Edw. VII.
c. 49, s. 12,
amended.

Beaver and
otter.

2.—(1) Subsection 1 of section 12 of the said Act is amended by striking out the figures "1910" in the third line and substituting therefor the figures "1915."

Muskrats and
mink.

(2) Subsection 2 of the said section is amended by inserting the words "mink or" after the word "no" in the first line thereof.

7 Edw. VII.
c. 49, s. 14,
amended.

Deer.

3. Subsection 3 of section 14 is amended by striking out the words "in all" in the second line, and by striking out the word "two" in the same line, and substituting therefor the word "one" and by inserting after the word "which" in the fifth line the word "may," and by striking out the word "two" in the last line and substituting therefor the word "one."

7 Edw. VII.
c. 49, s. 15,
amended.

Decoys.

4. Subsection 3 of section 15 of the said Act is amended by adding thereto the following words, "or water lying bounding private property, and all decoys shall be removed from the water during prohibited hours for shooting."

7 Edw. VII.
c. 49, s. 45,
amended.

Non-resident
exporting
deer.

5. Subsection 1 of section 45 of the said Act is amended by inserting in the seventh line after the word "one" the word "deer," and by striking out the words "two deer" in the same line thereof.

7 Edw. VII.
c. 49, s. 48,
amended.

Non-resident
Licenses.

6. Subsection 1 of section 48 of the said Act is amended by adding thereto the following clause:—

"(d) Authorizing persons not residents of the Province of Ontario to hunt and trap fur-bearing animals therein. The fee for such license shall be \$10."

No. 213.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act to amend the Ontario Game and
Fisheries Act.

First Reading 7th day of March, 1910.

Mr. REAUME.

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Ontario Railway Act, 1906.

HIS MAJESTY, by and with the assent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Subsection 1 of section 218 of *The Ontario Railway Act, 1906*, is amended by inserting after the word "town" in the seventeenth line, the following words " or of any municipality through which such other electric or street railway runs." 6 Edw. VII., c. 30, s. 218 amended.

No. 214

2nd Session, 12th Legislature.
10 Edward VII, 1910.

BILL.

An Act to amend the Ontario Railway
Act 1906.

First Reading 7th day of March, 1910.

Mr. LENNOX.

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Municipal Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following section:

3 Edw. VII.
c. 19
amended.

591d.—(1) The Council of any Municipality in which no tavern license is issued or granted under the provisions of *The Liquor License Act* may by by-law make an annual grant or grants of money as hereinafter limited to any person, who provides adequate accommodation for the travelling public and other guests in a suitable building to be known as an "Inspected hotel," situate within such municipality.

Annual
grant to
inspected
hotels.

(a) The accommodation to be provided under this subsection must be sufficient to satisfy the requirements of *The Liquor License Act* in the case of a licensed tavern.

Accommodation.

(2) Unless the population of any such municipality exceeds 2,000 only one such grant shall be made in any year, which shall not exceed \$300. If the population equals 4,000 and two inspected hotels are established in any such municipality a grant not exceeding \$300 may be made in respect of each such hotel and for each 3,000 additional population up to 10,000 and for each additional 5,000 thereafter a further grant of a similar amount may be made.

Extent of
grant.

(3) Instead of an annual grant the Council may on behalf of the Municipal Corporation enter into an agreement in writing, for any period not exceeding five years with

Agreement
for making
grants for
period of
five years.

any such person, to pay a specified sum annually or otherwise, not exceeding the amount above mentioned.

Permit to
be taken
out and held
continuously.

(4) Any person so aided shall be required to take out and continuously hold during the currency of such grant a permit under the provisions of section 35 of an Act passed in the ninth year of His Majesty's reign, Chaptered 82, and shall be subject to all the provisions of *The Liquor License Act* applicable thereto and should any conviction be had against any such person for selling liquor or keeping liquor for sale or for any other violation of *The Liquor License Act* or of this Act the Council may in its discretion cancel the said grant and any agreement entered into in respect thereof shall thereupon become void and the permit hereinbefore mentioned shall forthwith be cancelled by the Board of License Commissioners which granted the same and all rights and privileges thereunder shall cease. Any wilful neglect or refusal to take out and continuously hold, as aforesaid, such permit shall be an offence against *The Liquor License Act*.

Council may
impose terms
and condi-
tions.

(5) Subject to the foregoing provisions the Council may as a condition of such grant or grants impose any terms or restrictions which such Council may deem expedient.

Assent of
electors
required.

(6) No such by-law shall come into force or take effect until the same has been submitted to the electors in the manner provided for by this Act and has received the approval of a majority of the electors voting thereon.

No. 215.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Municipal Act.

First Reading 7th day of March, 1910.

Mr. GRIGG.

TORONTO:
PRINTED BY L. K. CAMERON.
Printer to the King's Most Excellent Majesty

An Act to amend the Ontario Medical Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Notwithstanding anything contained in *The Ontario Medical Act*, the non-payment of any annual or other fee which may be imposed under the said Act shall not disentitle the practitioner liable therefor from practising his profession, nor shall he be liable, if otherwise qualified; to the penalties imposed by section 49 of *The Ontario Medical Act*.

Rev. Stat.
c. 176
amended.

Non-payment
of annual
fee.

No. 216

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Ontario Medical
Act.

First Reading 7th day of March, 1910.

Mr. JESSOP.

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty

The Municipal Amendment Act, 1910.


HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 70 of *The Consolidated Municipal Act, 1903*, ^{3 Edw. VII., c. 19, s. 70,} is amended by adding the following subsection:—
amended.


- (2) At any time after two annual elections have been ^{Repeal of} held under a by-law passed under this section, ^{by-law.} the Council may, with the assent of a majority of those voting of the electors qualified to vote at municipal elections, repeal the said by-law.

2. Clause (a) of subsection 1, of section 80 of *The Consolidated Municipal Act, 1903*, as enacted by section 3 of ^{3 Edw. VII., c. 19, s. 80,} the Act passed in the sixth year of His Majesty's reign, ^{subs. 1} Chaptered 34, is amended by adding thereto the following ^{amended.} words:

“Provided, however, this clause shall not apply to a member of any such Board, who at least ten days prior to the day of nomination for such council, has filed his resignation with the Secretary of the Board of which he is a member; and the filing of such resignation shall render the seat of such member vacant.”

3.  *The Consolidated Municipal Act, 1903*, ^{3 Edw. VII., c. 19,} is ^{amended.} amended by adding the following section:

- 246a. All the provisions of this Act prohibiting the doing of any act or defining any offence against this Act, and imposing penalties therefor applicable to the election of members of municipal ^{Bribery sections, etc., to apply to voting on any by-law or question.}

councils shall apply *mutatis mutandis* to the voting upon any by-law or question submitted to the electors by a municipal council whether the submission of such by-law or question is optional with or compulsory upon the Council. 


3 Edw. VII.,
c. 19, s. 340,
amended.

4. Section 340 of *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following subsection:

One ballot
for several
by-laws.

- (2) When more than one by-law for the creation of debts is submitted at the same time to a vote of the qualified ratepayers, they may be all placed upon one ballot.

3 Edw VII.
c. 19, s. 384,
subs. 1
repealed.


5.  Subsection 3 of section 384 of *The Consolidated Municipal Act, 1903*, as amended by section 11 of the Act passed in the 9th year of His Majesty's reign, Chaptered 73, is repealed, and the following subsections substituted therefor:

Debentures,
when to be
dated and
issued.

- (3) The debentures, save as hereinafter provided, shall be issued within two years after the passing of the by-law, and shall all bear the same date, and may notwithstanding any provision in the By-law bear any date within such two years; provided that in any case where, because of the proposed expenditure upon the objects for which the debt is contracted, being estimated to extend over a series of years, and it being undesirable to have large portions of the moneys in hand unused and uninvested, or for other like or sufficient causes set out in the by-law, it would, in the opinion of the Municipal Council, be to the advantage of the Municipality to issue the debentures in instalments, the by-law may provide that the debentures may be issued in instalments of such amounts, and at such times, as the exigency of the case demands, but so that the first instalment shall be issued within two years, and all the debentures within five years after the passing of the by-law, and in such case the debentures may be issued according to the provisions of the by-law.

Provided further that the "The Ontario Railway and Municipal Board" may in the case of any by-law heretofore passed or hereafter to be passed upon the application of the Council or of any person entitled to receive any or all of the debentures to be issued under the by-law, or the

proceeds of the sale thereof, or to payment of the liabilities, or any of them intended to be created by such by-law, extend the time for issuing the debentures beyond such period of two years, and may also extend the time provided by any such by-law for the issue of any instalment of the debentures beyond the time authorized by such by-law for issuing the same, and such extension of time may be made, although the application for the same is not made until after the expiration of such period of two years or until after the expiration of the time provided by the by-law for the issue of such instalment, and in such case the debentures may be issued within such extended time.

- (3a) All orders heretofore made by "The Ontario Railway and Municipal Board, extending or purporting to extend the time for issuing the debentures authorized by any by-law heretofore passed, and the debentures issued or to be issued under or pursuant to such orders or any of them are hereby validated and confirmed and declared to be binding upon the Municipality which issued or may hereafter issue such debentures." 
- Orders of Ontario Railway and Municipal Board confirmed.

6. Section 388b of *The Consolidated Municipal Act, 1903*, as enacted by section 12 of *The Municipal Amendment Act, 1909*, is amended by striking out the word "City" in the eighth line and inserting in lieu thereof the word "Municipality," and by striking out all the words in the said section after the word "Boards" in the seventeenth line, and by changing the number of the said section from "388b" to "388c."

3 Edw. VII., c. 19, s. 388 (b) amended.

7. Section 537 of *The Consolidated Municipal Act, 1903*, is amended by adding the following as paragraph 8:—

3 Edw. VII., c. 19, s. 537 amended.

BY THE COUNCIL OF CITIES.

8. For the appointment of a Commissioner of Industries whose duty it shall be to bring to the notice of manufacturers and others the advantages of the City as a location for industrial enterprises, summer resorts, residential, educational and other purposes, and for prescribing the duties of such officer and for fixing his salary or other remuneration.
- Commissioner of Industries.

3 Edw. VII.,
c. 19, s. 538,
subs. 1,
amended.

8. Paragraph 1 of section 538 of *The Consolidated Municipal Act, 1903*, is amended by striking out the figure “\$3” in the third line and substituting therefor the figure “\$5.”

3 Edw. VII.,
c. 19, s. 540,
p. 3 re-
pealed.

9. Paragraph 3 of section 540 of *The Consolidated Municipal Act, 1903*, is repealed.

Remunera-
tion to
councillors
and commit-
tee men.

3 Edw. VII.,
c. 19, s. 542,
subsec. 17e
amended.

10. Subsection 17 (e) of section 542 of *The Consolidated Municipal Act, 1903*, is amended by inserting the words “preventing and ” after the word “for” where it first occurs in the first line thereof.

3 Edw. VII.,
c. 19, s. 552,
subs. 2,
amended.

Borrowing
money for
scavenging
system with
assent of
ratepayers.

11. Subsection 2, of section 552, of *The Consolidated Municipal Act, 1903*, is amended by striking out the figures “\$2,000” in the fifteenth line and substituting therefor the figures “\$5,000.”

3 Edw. VII.,
c. 19, s. 617,
amended.

12. *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following as Section 606a:

Joint main-
tenance of
road where
lands annexed
to city or
town.

606a. Where lands annexed to any city or town under section 24 abut on any road or highway, the city or town to which such lands are annexed, shall be jointly liable with the adjacent township or townships for the maintenance and repair of such road or highway.

3 Edw. VII.,
c. 19, s. 617,
amended.

13. Section 617 of *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following subsection:—

Construc-
tion and
maintenance
of boundary
lines and
bridges.

(5) All boundary lines, and all bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between two or more municipalities in a District without County organization shall be constructed, erected and maintained by the councils of such municipalities; and in case the councils fail to agree as to the proportion of the expense to be borne by each Municipality, the proportion shall be determined by arbitration under the provisions of this Act, and the award made by the arbitrators shall be final.

3 Edw. VII.,
c. 19, s. 617a
amended.

14. Section 617a of *The Consolidated Municipal Act, 1903*, as amended by section 32 of the Act passed in the fifth year of His Majesty's reign, Chaptered 22, and by section

23 of the Act passed in the seventh year of His Majesty's reign, Chaptered 40, is further amended by adding the following subsection:

- (6a) After the expiration of five years from an order of the Judge declaring the bridge not to be a county bridge, the town or township may, in the manner above provided, make another application to the Judge, who may make such order under subsection 5 as he may deem proper without regard to any former order made by him.

New application to County Judge after expiration of five years.

15. Section 625 of *The Consolidated Municipal Act, 1903*, and the subsections thereof are amended by striking out the words "Townships" and "Township" wherever the same appear therein, and substituting the word "Municipalities" or "Municipality" in lieu thereof, except in the 4th line of subsection 4 of said section where the word "Township" shall be struck out between the words "said" and "Municipalities" therein.

3 Edw. VII., c. 19, s. 625 amended.

Agreements between municipalities as to maintenance of boundary roads.

16. Section 33 of *The Municipal Amendment Act, 1905*, is repealed.

5 Edw. VII., c. 22, s. 33 repealed.

17. Subsection 1 of section 687 of *The Consolidated Municipal Act, 1903*, is amended by adding at the end thereof of "whether owned by the Municipality or by any other person."

3 Edw. VII., c. 19, s. 687, subs. 1, amended. Construction of waterworks mains as local improvements.

18. Section 740 of *The Consolidated Municipal Act, 1903*, as amended by section 37 of the Act passed in the seventh year of His Majesty's reign Chaptered 40, is amended by striking out the words "Judge of the County" in the third line of the amendment made by the said section 37 and substituting therefor the words "by the Judge of the County Court of the County in which the Police Village or the larger or largest part is situate."

3 Edw. VII., c. 19, s. 740, amended.

19. *The Consolidated Municipal Act, 1903*, is amended by adding thereto the following section as 740a thereof:—

3 Edw. VII., c. 19 amended.

740a. The Council of a Township in which a Police Village or part thereof is situate, when required by the Trustees of such Police Village, shall pass a by-law, commuting all the statute labour in the Police Village or in that part situate in the Township according to the ratio of statute labour in vogue in such Township, to a money payment of such sum for each day's

Commutation of statute labour in police villages.

statute labour not exceeding the sum of one dollar per day, as the said Trustees may deem sufficient, and the said Council shall place annually to the credit of the said Trustees, in the books of the Treasurer of the said Township, the whole amount of the said statute labour, so commuted, to be expended by the said Trustees for the purposes of the Police Village.

8 Edw. VII.,
s. 742, c. 19,
amended.
Payment
of orders
given by
police village
trustees.

20. Section 742 of *The Consolidated Municipal Act, 1903*, is hereby amended by adding after the word "afore-said" in the fifth line thereof the words "and to the extent of such other sums as the said Council or Councils is or are required by the provisions of this Act to place to the credit of the Trustees of the Police Village, in the books of the said Treasurer or Treasurers."

9 Edw. VII.,
c. 19, 746b,
subs. 1,
amended.

21. Subsection 1 of section 746b of *The Consolidated Municipal Act, 1903*, is amended by adding after the word "Act" in the fifth line, the words "and for preventing or regulating and licensing bowling alleys."

No. 217

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

The Municipal Amendment Act, 1910.

First Reading 7th day of March, 1910.
Second Reading 9th day of March, 1910.

Mr. HANNA.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

1910

An Act to Prevent the Spread of Insect and Fungous Diseases Injurious to Vegetation.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Fruit Pests Act*.

Short title.

2. In this Act

Interpre-
tation.

"Minister" shall mean the Minister of Agriculture for the Province of Ontario.

"Plant" shall mean any tree, shrub or plant, or the fruit of any tree, vine, shrub or plant.

"Disease" shall mean the following insects and diseases in any stage of development: Codling Moth, San Jose Scale, Yellows, Little Peach, Black Knot, Pear Psylla and Pear Blight.

3. On the recommendation of the Minister, the Lieutenant-Governor in Council may appoint one or more competent persons to act as inspectors, whose duties shall be to enforce the provisions of this Act.

Inspectors.

4. No person shall import or bring, or cause to be imported or brought into the Province of Ontario, for any purpose whatsoever, any diseased plant.

Importing
diseased
plants
prohibited.

5. No person shall keep or have, or offer for exchange or sale, any diseased plant.

Keeping
diseased
plants.

(a) All persons owning, leasing or managing any orchard or collection of plants, other than a nursery, shall, when any plant therein becomes dis-

Destruction
of diseased
plants.

ceased and forthwith on becoming aware, whether by notice or otherwise, of such disease, destroy such plant by fire or shall effectually treat the disease by fumigation or spraying with such material as may be prescribed by the Minister.

Appointment
of inspectors
by municipi-
pality.

- (b) The council of any city, town, township or incorporated village may, and upon the petition of twenty-five or more fruit growers who are ratepayers, shall by by-law appoint at least one inspector to enforce the provisions of this Act in the municipality and fix the amount of remuneration, fees or charges he shall receive for the performance of his duties. All such appointments, as well as such remuneration, fees or charges shall be subject to, and be only operative on the written approval of the Minister, communicated by him to the clerk of the municipality. The by-law shall not take effect unless and until approved by the Minister of Agriculture, and shall remain in force only for the calendar year in which it is passed. The clerk of the municipality shall transmit a certified copy of every such by-law to the Minister of Agriculture before the first day of May after the passing thereof.

Notice to
owner or
occupant.

- (c) Upon the report of the inspector to the reeve or mayor that there is disease upon the plants on any lot within the municipality, the reeve or mayor shall direct the clerk to give notice personally by the inspector or by registered letter to the owner or occupant of the lot to have the plants forthwith sprayed, and in case the same are not sprayed within ten days, the inspector may cause the spraying to be done and the cost of the same shall be charged on the lot and be collected as a special tax in addition to the other taxes imposed by the municipal council on the lot.

Inspectors
to obey
regulations.

- (d) All such inspectors appointed shall be subject to and observe the regulations and directions of the Minister, and shall be subject and subordinate to the inspector appointed by the Minister, and in case of any neglect of duty such inspector shall be subject to the penalties prescribed by this Act.

Remuneration
of municipal
inspectors.

- (e) The council of the city, town, township or incorporated village shall pay the remuneration, fees or charges of such inspectors and shall be entitled to

receive from the Department of Agriculture one-half of the amount so paid upon furnishing the Department with statements of the sums so paid, certified to by the inspector appointed by the Minister, provided that such statements are submitted to the Minister on or before the fifteenth day of December of the year to which they apply.

6. The owner or proprietor of any nursery shall not send out or permit any plant to be removed from his nursery without the same being first fumigated by hydrocyanic acid gas in accordance with regulations prescribed by Order of the Lieutenant-Governor in Council.

Nurseryman
to fumigate
plants.

7. No person shall sell or dispose of or offer for sale any plant obtained, taken or sent out from a nursery unless the said plant has been previously fumigated by hydrocyanic acid gas in accordance with the above regulations.

Plants not
to be sold
until
fumigated.

8. In case the inspector finds disease in any nursery, and so reports to the Minister, the Minister may thereupon inform in writing the owner or proprietor or manager of said nursery of the existence of disease in his nursery, and the owner or proprietor or manager of said nursery shall not thereafter permit any plant or plants to be removed from the said nursery until he is notified in writing from the Minister that the inspector has reported to the Minister that it is safe in the public interest to permit the said nursery stock to be removed after fumigation.

Plants not
to be
removed from
nursery where
disease
exists.

9. For the purpose of scientific investigation the Minister may from time to time, by writing given under his hand, except such persons as he may deem proper from the operation of the two preceding sections, and while acting under such permission such persons shall not be subject to the penalties imposed by this Act.

Exception for
scientific
purposes.

10. Any person having reason to suspect that any plant in his possession or in his charge or keeping is diseased shall forthwith communicate with the Minister in regard to the same, and shall furnish the Minister with all such information in regard to the source or origin of the said infestation and nature of the same as he may be able to give.

Owner of
diseased
plant to
notify the
Minister.

11.—(a) Whenever disease exists or is supposed to exist on any plant, the Minister may direct a competent person to make an examination and inspection, and may order that any plant so infested, or such part as he may deem advisable, shall be immediately destroyed by burning, either by the person appointed to make the inspection or by the person owning or

Examination
of diseased
plants and
destruction
by burning.

having possession of the said plant, or some other person so directed in writing, and the person so directed shall make a full report to the Minister in writing as to the nature and extent of the work so performed, together with a fair estimate of the value of the plants destroyed.

Where disease
found in
several parts
of orchard
or collection.

(b) If, in the case of an orchard or collection of plants, the inspector finds disease on plants located in several different parts of the orchard or collection, and decides that it is advisable in the public interest to destroy all the plants in such orchard, or in any part or parts thereof, and so reports to the Minister, the Minister may direct that an examination or inspection shall be made by an additional inspector and upon their advice in writing he may direct that all the plants in such orchard or such collection of plants or in such part or parts thereof shall be destroyed without requiring that every plant in the said orchard or collection shall be first examined.

Free access
for inspectors,
etc.

12. Any person appointed under section 3 of this Act to inspect or destroy any plant for the purpose of enforcing the provisions of the Act, and any inspector appointed by the Council of any municipality, shall, upon producing his authority in writing, have free access to any nursery, orchard, store-room, or other place where it is known or suspected that any plant is kept.

Penalty.

13. Any person neglecting to carry out the provisions of this Act, or any person offering any hindrance to the carrying out of this Act, shall upon summary conviction be liable to a fine of not less than twenty dollars nor more than one hundred dollars, together with costs, and in default of payment thereof shall be subject to imprisonment in the common gaol for a period of not less than ten days nor more than thirty days.

Including
other
diseases.

14. The Lieutenant-Governor in Council may, by Order, direct that other diseases than those mentioned may be included in the provisions of this Act, and thereafter during the continuance of such Order-in-Council the word "disease" in this Act shall include all such other diseases. Public notice of such Order-in-Council shall be given by publication in two successive issues of "The Ontario Gazette."

Repeal of
Rev. Stat.
c. 280, etc.

15. The Acts known as *The Yellows and Black Knot Act*, *The Noxious Insects Act*, and *The San Jose Scale Act* are hereby repealed.

No. 218.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act to Prevent the Spread of Insect
and Fungous Diseases Injurious
to Vegetation.

1st Reading, 8th day of Mar., 1910.

Mr. DUFF.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting certain Public School Matters in the City of Toronto.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Where territory forming part of a union school section has been heretofore or is hereafter annexed to the City of Toronto, such territory shall for all school purposes be deemed to be part of the City. Annexation of part of union school section to Toronto.

(2) The corporation of the City and the corporation of the municipality or the corporations of each of the municipalities may agree upon the valuation and adjustment of the rights and claims of all parties affected by the annexation, and in default of agreement each corporation may appoint an arbitrator who with the Judge of the County Court of the County of York shall value and adjust such rights and claims in an equitable manner. Agreement between municipal corporations. Arbitration in case of disagreement.

(3) The award shall be final and conclusive, and any money found due, either by agreement or under the award shall be deemed Public School moneys, and shall be payable out of the property taxable for Public School purposes in that part of the section situate within the indebted municipality. Award to be final.

(4) Section 44 of *The Public Schools Act* shall not apply to money required to be raised under this section, and debentures may be issued to be payable out of the property so taxable without the sanction of the electors, and upon the terms and conditions set forth in a by-law of the municipality. 9 Edw. VII., c. 89, s. 44 not to apply.

(5) That part of the union school section not included in the territory so annexed shall constitute a union school section or a school section, and the school corporation shall continue, and the trustees who are in office at the time of the annexation shall continue in office until their successors are elected. Part of union section not annexed.

Dissolving or
altering
boundaries
of section.

(6) At any time after the annexation proceedings may be taken for dissolving or altering the boundaries of the section in the manner provided by *The Public Schools Act*.

9 Edw. VII.,
c. 89,
application
of section.

(7) This section shall apply and take effect notwithstanding that proceedings may have been begun or are pending or have been disposed of under any provision of *The Public Schools Act*.

Public school
sites in
annexed
territory
vested in
Board of
Education.

2.—(1) The Public School houses, school sites and premises situate within territory heretofore or hereafter annexed to the City of Toronto shall, from the date of such annexation, be deemed to have been and to be vested in the Board of Education for the City of Toronto without any further conveyance.

List of
lands so
vested.

(2) The Secretary of the Board forthwith after the passing of this Act shall prepare a list of the lands so vested, describing them sufficiently for purposes of registration, and the Chairman and Secretary shall sign the same.

Registrar or
Master of
Titles to
write lots
in abstract
index or
land titles
register.

(3) The Secretary shall forthwith deliver the list to the Registrar of the proper registry division or to the Master of Titles, and the Registrar or Master of Titles, as the case may be, shall thereupon enter in the abstract index or land titles register opposite each parcel of land the words, "Vested in the Board of Education of the City of Toronto by virtue of 10 Edward VII., Chapter —, section —, A.B. Registrar (or Master of Titles.)"

Lands which
are hereafter
vested in
Board.

(4) The like proceedings shall be taken with respect to any land which hereafter becomes vested in the Board by virtue of this section as soon as possible after the annexation of the territory in which the land so vested is situate.

No. 219.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act respecting Certain Public School
Matters in the City of Toronto.

1st Reading, 8th day of Mar., 1910.

Mr. Lucas.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act with respect to Compensation to Workmen
for Injury Suffered in the Course of their
Employment.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. If in any employment injury by accident arising out of and in the course of the employment (or in going to or returning therefrom in a conveyance supplied by the employer) is caused to a workman or apprentice, his employer shall be liable to pay compensation to the person injured or his representatives according to the provisions hereinafter set forth.

Liability of
employer.

2. In cases to which section 1 of this Act applies, the person injured is entitled,

Scale of
compensation.

- (1) In case of permanent incapacity to compensation equal to fifty per cent. of his yearly wages, reckoning from the day the accident took place, or from that upon which by agreement of the parties or by final judgment it is established that the incapacity has shown itself to be permanent.
- (2) In case of permanent and partial incapacity to compensation equal to half the sum by which his wages have been reduced in consequence of the accident.
- (3) For temporary incapacity to compensation equal to one-half the daily wages received at the time of the accident.

The total amount of the compensation shall not, however, in any case, except in the case mentioned in paragraph four, exceed three thousand dollars.

Scale of
compensation
in case of
death.

3. Where death results from the injury the compensation shall be,

- (1) If the workman leaves any dependants wholly dependent upon his earnings, a sum equal to his earnings in the employment of the same employer during the three years next preceding the injury, or the sum of two thousand dollars, whichever of those sums is the larger, provided that the amount of any weekly payments made under this Act, and any lump sum paid in redemption thereof, shall be deducted from such sum, and, if the period of the workman's employment by the said employer has been less than the said three years, then the amount of his earnings during the said three years.
- (2) If the workman does not leave any such dependants, but leaves any dependants in part dependent upon his earnings, such sum, not exceeding in any case the amount payable under the foregoing provisions, as may be agreed upon, or, in default of agreement, may be determined under this Act, as hereinafter provided for, and,
- (3) If he leaves no dependants, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars.
- (4) Where total or partial incapacity for work results from the injury, a weekly payment during the incapacity not exceeding fifty per cent. of his average weekly earnings during the previous twelve months.
- (5) In fixing the amount of the weekly payment, regard shall be had to any payment, allowance, or benefit which the workman may receive from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average weekly amount which he is earning or is able to earn in some suitable employment or business after the accident, but shall bear such relation to the amount of that difference as under the circumstances of the case may appear proper.
- (6) The payment in the case of death shall, unless otherwise ordered as hereinafter provided, be

paid into the county court, and any sum so paid into court shall, subject to rules of court and the provisions of this Act, be invested, applied, or otherwise dealt with by the court in such manner as the court in its discretion thinks fit for the benefit of the persons entitled thereto under this Act, and the receipt of the Clerk of the Court shall be a sufficient discharge in respect of the amount paid in.

4. No compensation shall be granted if the accident was brought about intentionally by the person injured. The court may reduce the compensation if the accident was due to the inexcusable fault of the workman or increase it if it is due to the inexcusable fault of the employer.

When right to compensation forfeited.

5. The compensation payable under this Act shall be payable monthly.

Monthly payments.

6. All compensation to which this Act applies shall be unalienable and exempt from seizure or attachment.

Compensation inalienable and exempt from seizure or attachment.

7. The compensation prescribed by this Act shall be entirely at the charge of the employer, and the employer shall not for this purpose deduct any part of the employee's wages even with the consent of the latter.

Compensation to be a charge on employer only.

8. The person injured or his representatives may, instead of proceeding against his employer under this Act, proceed at common law or under *The Workman's Compensation Act* in force in this Province. In the event of his so proceeding he shall not be entitled to take the benefit of the provisions of this Act.

Right of employee to proceed under other Acts.

9. The person injured or his representatives shall, in addition to the provisions of this Act, have the right to claim compensation under the Common Law from the persons responsible for the accident. The compensation so awarded to him or them shall to the extent thereof discharge the employer from his liability: and the action against third parties responsible for the accident may be taken by the employer at his own risk, in the place of the person injured or his representatives, if he or they refuse to take such action after having been in default so to do.

Common law rights preserved.

10. The person injured, if so required by the employer, shall from time to time submit himself for examination by a duly qualified medical practitioner provided and paid by the employer. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examina-

Physical examination of claimant.

tion has taken place. The person injured shall always be entitled to demand that the examination shall take place in the presence of a physician chosen by him.

Notice of claim.

11. Proceedings for the recovery under this Act of compensation for an injury shall not be maintainable unless notice of the accident has been given as soon as practicable after the happening thereof (except when it happens on a vessel when notice shall not be required) and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury, or, in case of death, within six months from the time of death;

Proviso.

Provided always that—

- (a) the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such proceedings if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect, or inaccuracy, or that such want, defect, or inaccuracy was occasioned by mistake, absence from the Province of Ontario, or other reasonable cause; and
- (b) the failure to make a claim within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from the Province of Ontario, or other reasonable cause.

Particulars in notice of claim.

12. Notice in respect of any injury under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident happened, and shall be served on the employer, or, if there is more than one employer, upon one of such employers.

Service of notice.

13. The notice may be served by delivering the same at or sending it by post in a registered letter addressed to the residence or place of business of the person on whom it is to be served.

Service of notice where employer is body of persons corporate or unincorporate.

14. Where the employer is a body of persons, corporate or unincorporate, the notice may also be served by delivering the same at, or by sending it by post in a registered letter addressed to the employer at the office, or, if there be more than one office, any one of the offices of such body.

15. Where any person (in this section referred to as the principal), in the course of or for the purposes of his trade or business, contracts with any other person (in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under this Act which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Act, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

Liability of principal and contractor.

16. Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section, and all questions as to the right to and amount of any such indemnity shall in default of agreement be settled as hereinafter provided.

Indemnification of principal.

17. Nothing in this section shall be construed as preventing a workman recovering compensation under this Act from the contractor instead of the principal.

Right of recovery from contractor preserved.

18. This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises on which the principal has undertaken to execute the work or which are otherwise under his control or management.

Where accident occurs elsewhere than on premises of principal.

19. Where any employer has entered into a contract with any insurers, in respect of any liability under this Act to any workman, then, in the event of the employer making an assignment for the benefit of his creditors, or if his assets are being sold under execution, or if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer, so however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

Where rights of employer against insurers to be vested in workman.

20. If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance before the Sheriff, assignment or liquidation proceedings.

Right of workman to prove for balance if insurance insufficient.

Preferential claim of workman for damages in distribution of assets.

21. There shall be included among the debts which under *The Winding-up Act* and *The Assignment for the benefit of Creditors Act* are in the distribution of the property of the assets of a person or a company being wound up to be paid in priority to all other debts, the amount, not exceeding in any individual case three hundred dollars due in respect of any compensation the liability wherefor accrued before the date of the assignment, placing of execution in the Sheriff's hands, or the date of the commencement of the winding up. Where the compensation is a weekly payment, the amount due in respect thereof shall, for the purposes of this provision be taken to be the amount of a lump sum to be fixed by the Court as hereinafter mentioned.

Jurisdiction of County and District Courts.

22. The County and District Courts wherein the accident happened, or in the case of mariners where the mariner shipped or resides, shall have jurisdiction to try without a jury every action or proceeding necessary for the carrying out of all and every of the provisions of this Act.

Appeal to Divisional Court.

23. In all matters or proceedings before the County Court where the award or judgment of the Court directs the payment of any sum in excess or which may exceed the sum of one hundred dollars there shall be an appeal from such award or judgment to a Divisional Court, such appeal to be taken within the time and according to the rules, practice and procedure in force in the County Court.

Special procedure claim.

24. The proceedings in said Court shall be commenced by a Statement of Claim which shall in a concise form set forth the cause of complaint. A copy shall be served on the employer in the same manner as a Writ of Summons is served in said Court. The employer's defence thereto must be served within eight days thereafter, whereupon the said Court shall fix an early date to dispose of the said matter. The costs of all proceedings shall be in the discretion of the trial Judge.

Rules and tariff of fees.

25. The Board of County Judges may prepare and pass a set of rules to govern the practice and procedure for disposing of all matters under this Act, including a tariff of fees to be paid to witnesses, Solicitors and Counsel and the Clerks of the Courts.

Judgment, effect of.

26. The said Court may, in the event of an agreement between the parties, render a judgment in accordance therewith, and such judgment shall have the same effect as a final judgment.

Agreements contracting out of Act void.

27. Every agreement entered into between the parties contrary to the provisions of this Act shall be null and void.

28. The expression "workman", "apprentice", or "employee" wherever the same is used in this Act shall include women and girls.

"Workman,"
"Appren-
tice" or
"employee"
to include
women and
girls.

29. This Act shall not apply to farm labourers or persons employed in agricultural industries.

Application of
Act limited.

No. 220.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act with respect to Compensation to
Workmen for Injury Suffered in the
Course of Their Employment.

1st Reading, 8th day of Mar., 1910.

Mr. PROUDFOOT.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Act for the Prevention of
Accidents by Fire in Hotels and other
like Buildings.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. *The Act for the Prevention of Accidents by Fire in* Rev. Stat.
c. 264
Hotels and other like buildings is amended by adding the fol- amended.
lowing, as section 8 to said Act:

8. In any action brought under the provisions of *The* Rev. Stat.
c. 166.
Act respecting Compensation to the Families of
Persons killed by Accident and in Duels against
the owner, lessee or proprietor of a hotel for
damages for failure to comply with any of the
provisions of this Act, the onus shall be on such Onus of
proof to be
upon pro-
prietor of
hotel, etc.
owner, lessee or proprietor to show that the death
in respect of which such action is brought was
not occasioned by reason of such failure.

No. 221.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act to amend the Act for the Prevention of Accidents by Fire in Hotels and other Like Buildings.

1st Reading, 8th day of Mar., 1910.

Mr. HEARST.

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

An Act to amend The Succession Duty Act, 1909.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Succession Duty Act*, Short title. 1910.

2. Sections 5 and 9, subsection 3 of section 11, subsection 4 of section 12, subsection 1 of section 15, and section 24 of *The Succession Duty Act, 1909*, are repealed, and the following substituted therefor:

5. Where in respect of any succession in Ontario any estate, legacy or succession duty is payable in any part of the British Dominions other than in Ontario, or in a foreign country by the law of that country, in respect of which no allowance of duty is made under section 9, and the Treasurer is satisfied that by reason of such succession any duty is payable there in respect of it, he may allow the amount of that duty to be deducted from the value of the succession in Ontario.

9. Where the Treasurer is satisfied that in any part of the British Dominions other than Ontario, or in any foreign country to which this section applies, any estate, legacy or succession duty is paid by reason of the succession in Ontario, an allowance for the duty so paid shall be made from the amount payable to this Province with respect to the same property; provided that any such allowance shall be made only as to such part of the British Dominions or as to such foreign country to which the Lieutenant-Governor in Council shall have extended the provisions of this section. Provided also that the Lieutenant-Governor in Council may revoke any Order in Council made under this section.

Allowance in respect of duty paid elsewhere.

Allowance for duty paid elsewhere on same death.

Proviso.

Where no
executor or
administra-
tor account-
able for duty.

11. (3) Every person to whom property passes for any beneficial interest in possession, and also to the extent of the property actually received or disposed of by him, every trustee, guardian, committee, or other person in whom any interest in the property so passing, or the management thereof, is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title, shall be accountable for the duty, and shall within six months after the death of the deceased, or such later time as may be allowed by the Treasurer, make and file with the Registrar of the Surrogate Court of the county or district in which the deceased had a fixed place of abode, or in which property, or any part thereof, is situate, a statement under oath similar to that required by subsection 1; but that this subsection shall not apply to property included in the statement required by subsection 1.

Judge may
direct ap-
praisement
of property
by Sheriff.

12. (4) In lieu of or in addition to evidence of valuation of property the Surrogate Judge may in the first instance or at any time before judgment, and at the request of the Treasurer, shall issue a direction to the Sheriff of the county where any property is situate in respect to which duty is payable, or to some other competent person, to make an appraisement of the property mentioned in the inventory or any part thereof, or of any property wrongfully omitted.

Duties to be
payable with-
in 18 months
from death
of owner.

15. (1) The duty imposed by this Act, unless otherwise herein provided, shall be due at the death of the deceased, and payable within eighteen months thereafter, and if the same, or any part thereof, is paid within that period, no interest shall be charged or collected thereon, but if not so paid, interest at the rate of five per centum per annum from the death of the deceased shall be charged and collected upon the amount remaining from time to time unpaid, and such duty, or so much thereof as remains unpaid, with interest thereon, shall be and remain a lien upon the property in respect of which it is payable until paid. Provided that the duty chargeable upon any legacy given by way of annuity,

Proviso.

whether for life or otherwise, may be paid in four equal consecutive annual instalments, the first of which shall be paid before the falling due of the first year's annuity and each of the three others within the same period in each of the next succeeding three years, and for non-payment when due interest shall be collected from the date of the maturity of each instalment until paid, but if the annuitant dies before the expiration of the four years, payment only of the instalments which became due before his death shall be required.

- (a) The Lieutenant-Governor in Council, upon proof to his satisfaction that payment of the duty within the time limited by this subsection would be unduly onerous, may extend the time for the payment to such date and upon such terms as may be deemed proper.
- (b) For payment before the time provided for in this section the Treasurer may allow to the person accountable for the duty, interest at a rate not exceeding three per centum per annum upon the amount so paid.

24. Except as to the liability for duty of estates of persons dying before the commencement of this Act, and the rate of duty payable in respect thereof, this Act shall be deemed to be and to declare the law relating to succession duty on and since the first day of July, 1892, the date of the commencement of the original Act; and *The Succession Duty Act of 1907*, and amendments thereto are repealed.

Declaration
of scope of
Act.

This section shall take effect as if it had been enacted on the 13th of April 1909.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act to amend The Succession Duty
Act, 1909.

1st Reading, 9th day of Mar., 1910.

Mr. MATHESON.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

No. 223.

1910.

BILL

An Act to amend The Consolidated Municipal Act,
1903.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

Section 583 of *The Consolidated Municipal Act, 1903*, is ^{3 Edw. VII.} amended by striking out paragraph 23 and the four lines ^{c. 19, s. 583} immediately preceding, and clauses (a) to (f) therein, and inserting in lieu thereof the following:—

By the Councils of cities and towns:

23. For licensing and regulating milk ven- ^{Regulating}
dors, and for providing for the inspection of ^{and licensing}
the premises of the licensee and of any other ^{milk vendors.}
premises from which the milk supplied by the
licensee is obtained, whether the premises of
such licensee or such other premises are situate
within the limits of the municipality or else-
where, and for revoking and cancelling the
license of any milk vendor where it is found
upon inspection that the premises are not main-
tained in a suitable cleanly and sanitary con-
dition, or that the animals from which the milk
is obtained are not properly fed and cared for.

No. 223.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Consolidated
Municipal Act, 1903.

First Reading 10th day of March, 1910.

Mr. DUFF.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Act respecting certain Municipal By-laws and Agreements.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 1 of the Act passed in the 9th year of His Majesty's reign, Chaptered 75, intituled *An Act respecting certain Municipal By-laws and Agreements*, is amended by adding the following:

"Street" shall include a highway and a lane.

Interpreta-
tion.
"Street."
"Franchise."

"Franchise" shall include any right to which this Act applies.

2. Clause (b) of section 3 of the said Act is amended by adding the words "or across" after the word "along" in the tenth line of the said clause.

9 Edw. VII.,
c. 75, s. 3,
cl. (b)
amended.

3. Section 3 of the said Act is amended by adding thereto the following clause;

9 Edw. VII.,
c. 75, s. 3
amended.

(e) A By-law of a county or township, if the by-law is approved by the Lieutenant-Governor in Council.

Exemptions
from Act.

4. The said Act is also amended by adding thereto the following section;

Application
of Act to
renewals and
extensions.

6. This Act shall apply to the renewal or extension of an existing franchise.

No. 224.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend the Act respecting certain Municipal By-laws and Agreements.

First Reading, 10th day of March, 1910.

Mr. BECK.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting The Hydro-Electric Power Commission of Ontario.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. It is declared that Section 10 of *The Power Commission Amendment Act, 1909*, conferred upon "The Hydro-Electric Power Commission of Ontario" absolute authority without the consent of the owners or persons interested and without any pre-requisite or preliminary action or proceeding whatsoever, and without any other sanction or authority, to enter upon any lands required for the purpose of constructing, erecting, maintaining and operating thereon the transmission lines and works in connection therewith referred to in said section and to retain possession thereof for such time as the Commission should think proper and under agreement with the owners or persons interested or without their consent and without any pre-requisite or other sanction or authority whatsoever to take and acquire such right, title, privilege, easement, or interest in, over, upon or in respect of or relating to said lands as to the Commission might seem desirable or expedient.

Powers of entry for the construction of line, etc., under 9 Edw. VII., c. 19, s. 10.

2. Whenever the Commission acts or has acted under the authority conferred by said section 10 compensation shall be made to the owners or persons interested for all damage to said lands necessarily resulting from the exercise of the powers granted to the Commission by said section. Provided always that in fixing such compensation regard shall in all cases be had to the nature and extent of the estate, right, privilege, easement or interest which the Commission decides to take and acquire in, over, upon or in respect of the said lands, and any assessment of damage shall be based thereon. The claimant shall present his claim for damages to the Commission in the manner provided for presentation of claims under Section 62 of *The Public Works Act*, and the provisions of said Section 62 shall apply in respect of

Right of owner to compensation.

such claim, and in the event of no agreement being arrived at the amount of such damage may be determined by arbitration under the said *Public Works Act*, in which case the provisions respecting arbitration contained in the said Act shall, *mutatis mutandis*, apply, or should such claimant elect by notice in writing within one month from the entry on and taking possession by the Commission, the amount of such compensation shall be determined in the manner provided by *The Arbitration Act* and subject to the provisions thereof.

6 Edw. VII.,
c. 85.

Payment or
disposition of
compensation.

3. When the Commission has agreed on the purchase price or rental, or the amount of compensation has been determined by arbitration under either of the said Acts, all the provisions of *The Public Works Act* as to payment or other disposition of the moneys payable in respect of the estate, right, title or interest purchased, leased or taken by the Commission and as to the vesting of such estate, right, easement or interest, and the title thereto, in the Commission shall *mutatis mutandis* apply.

7 Edw. VII.,
c. 19, s. 22
amended.

4. Section 22 of *The Power Commission Act* is amended by substituting for subsection 4 the following subsection:—

Orders and
regulations of
Commission.

(4) The Commission may from time to time make orders and regulations as to the construction, operation, protection, and inspection of the works, plant, machinery, appliances and equipment for transmission and distribution of electrical power by municipal corporations, and railway, power, or transmission companies.

Penalty for
disobedience
to order of
Commission.

(5) Any municipal corporation, company or person neglecting or refusing to obey and carry out the order or direction of the Commission or the member thereof before whom the complaint was heard, or to comply with any order or regulation under the next preceding subsection, in addition to any other liability, shall forfeit to His Majesty for the uses of the Province the sum of \$100 for every day during which such refusal or neglect shall continue. 6 Edw. VII., c. 15, s. 19.

9 Edw. VII.,
c. 19, s. 2
amended.

5. Section 2 of *The Power Commission Amendment Act, 1909*, is amended by adding thereto the following clauses:

City of
Hamilton
and Town of

(f) By adding the Corporations of the City of Hamilton and the Town of Tillsonburg as parties of

the second part, and inserting in said schedule the word "Hamilton" in Column 1 and in Columns 2, 5, 6 and 7 opposite that word the figures "1,000," "17.92," "84,384," and "3,620," and the word "Tillsonburg" in Column 1, and in Columns 2, 5, 6, and 7, opposite that word, the figures "500," "33.00," "84,713" and "6,892."

Tillsonburg added as parting to agreement.

- (g) By striking out paragraphs 1 (b), 2 (b), 10, and the last sentence of 11, and substituting therefor respectively:—

Agreement with municipalities varied.

- 1.—(b) On June 1st, 1910, or on any earlier date on which the Commission may be prepared to supply the same after one month's notice from the Corporation to supply 1,000 horse power to the Corporation within the limits thereof, ready for distribution, at approximately the voltage set forth in Column 4 of the schedule hereto, and approximately 25 cycles per second.
- 2.—(b) The Corporation of the City of Hamilton shall not be bound to take power exclusively from the Commission, and shall at all times be at liberty to take power from any other source, or generate power, and the power supplied by the Commission may be used by the Corporation of the City of Hamilton for any purpose, except as set forth in paragraph 11 hereof.
- 10.—(a) The Commission shall at least annually adjust and apportion the amounts payable by municipal corporations for such power and such interest, sinking fund, line loss, and cost of operating, maintaining, repairing, renewing and insuring the line and works, "rateably according to the distance from Niagara Falls and amount of power supplied to the Corporation of the City of Hamilton, subject to the provisions of paragraphs 10 (b) and (c)."
- (b) The Municipal Corporation of the City of Hamilton shall be entitled, in respect of the said amounts payable by the said Municipal Corporation, to any reduction that may be due to increase in the quantity of power supplied to the said Municipal Corporation.

- (c) The said Municipal Corporation shall not be entitled, in respect of said amounts, to any reduction that may be due to increase in the quantity of power supplied by the Commission to any other corporations or parties.
- (d) At any time prior to the 31st December, 1910, the said Municipal Corporation may agree to insert paragraphs 2 (b) and 13 (a) and (b) of the agreement of May 4th, 1908, in this agreement, and thereafter paragraph 10 (b) of this agreement shall be of no effect, and the said Municipal Corporation shall be entitled to all rights and benefits of said agreement of May 4th, 1908, as if originally a party thereto.

No power shall be supplied by any municipal corporation for the purposes of any railway, or for distribution other than by the municipality, without the written consent of the Commission.

- (h) By adding to paragraph 4:

Said meters shall be located by the Commission so as to prevent discrimination in the measurement of the quantity of power supplied to each municipality.

- (i) By striking out paragraph 13 and numbering paragraphs 14 and 15, 13 and 14.
- (j) The variations in the preceding subsections (g), (h) and (i) shall apply to the contract with the Corporation of the City of Hamilton only.

By-laws of
Hamilton and
Tillsonburg
confirmed.

6. By-law numbered of the said Corporation of the City of Hamilton, and by-law numbered of the Town of Tillsonburg, are declared to be sufficient, legal, valid and binding for the purpose thereof, and the contract executed by the said Corporations and the Commission shall be legal, valid and binding on the parties thereto, notwithstanding that the provisions of the first sentence of paragraph 11 have not been fully complied with.

No. 225

2nd Session, 12th Legislature,
10 Edw. VII., 1910.

BILL

An Act respecting The Hydro-Electric
Power Commission of Ontario.

First reading 10th day of March, 1910.

Mr. BECK.

TORONTO:

PRINTED BY L. K. CAMERON.

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Department of Education Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 6 of *The Department of Education Act* is amended by adding the following subsections: 9 Edw. VII.,
c. 88, s. 6
amended.

(2) The Minister shall so divide the sums appropriated for the purposes mentioned in clauses (d) and (g) of subsection 1, that out of each of them there shall be allotted to the Separate Schools a sum which bears the same ratio to the whole sum appropriated as the average number of pupils who attended such schools during the next preceding calendar year bears to the whole average number of pupils who attended both Public and Separate Schools during that year and that the residue shall be allotted to the Public Schools, and, subject to the regulations, shall apportion among the Public Schools the sums so allotted to them, and among the Separate Schools the sums so allotted to them on the respective bases mentioned in clauses (d) and (g). Distribution
of legislative
grant between
public and
separate
schools.

(3) All moneys appropriated for any of the following purposes mentioned in clauses (L) of subsection 1, that is to say:

(a) Fifth Classes;

(b) Manual Training, Household Science, Art and Agricultural Departments;

(c) School Gardens;

(d) Kindergartens;

(e) Night Schools;

(f) Free Text Books;

(g) Other educational purposes not specially mentioned in clause (e);

which are applied for the purposes of primary education, shall be allotted, divided and apportioned as provided by subsection 2.

(4) Primary education for the purposes of subsection 3, shall mean education in the Public or Separate Schools.

(5) Any part of the sums appropriated for the purposes mentioned in subsections 2 and 3, and allotted to the Public Schools, as provided by subsection 2, which shall not be required to pay the amounts to which such schools shall be entitled on the respective bases mentioned in clauses (d) and (g) of subsection 1, shall lapse and become part of The Consolidated Revenue Fund, and in like manner any part of the sums allotted to the Separate Schools which shall not be required to pay the amounts to which such schools shall be entitled on the respective bases mentioned in clauses (d) and (g) of subsection 1, shall lapse and become part of The Consolidated Revenue Fund.

No. 226.

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL

An Act to Amend the Department of
Education Act.

First Reading day of February, 1910

SIR JAMES WHITNEY.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Land Titles Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Section 130 of *The Land Titles Act* is hereby amended by Rev. Stat. c. 138, s. 130 inserting the following subsections between subsections Nos. 3 amended. and 4 thereof:

(3a) All money paid under subsection 2 of this section and in Court at the credit of the "Assurance Fund under *The Land Titles Act*" account and all money hereafter payable under the said subsection shall on his demand be paid to the Treasurer of Ontario, and the Treasurer shall on receipt of such money issue to the Accountant of the Supreme Court in trust, Ontario Government Stock to an amount equal to the sum or sums so received, and such stock shall represent the "Assurance Fund under *The Land Titles Act*" and be available for the same purposes. Moneys at credit of assessment fund to be paid to treasurer of Province and Ontario Government stock to be issued therefor.

(3b) The stock referred to in subsection 3a shall be payable or redeemable at such time and shall be subject to such conditions as to inscription, registration and transfer thereof as the Lieutenant-Governor in Council may deem advisable, and shall bear interest at the rate of $2\frac{1}{2}$ per centum per annum.

(3c) The said stock, together with the interest thereon, shall be charged upon and paid out of the Consolidated Revenue Fund.

(3d) All sums which become payable out of the said "Assurance Fund under *The Land Titles Act*," shall be paid by the Treasurer of Ontario to the persons entitled thereto,

out of the Consolidated Revenue Fund, on the production of the Order of the Court or Judge authorizing or directing the payment to be made or of a certified copy thereof, and the sums so paid out shall be credited as payments on account of the stock in the hands of the Accountant, and the amount thereof shall be reduced accordingly.

2nd Session, 12th Legislature,
10 Edw. VII, 1910.

BILL

An Act to amend The Land Titles Act.

1st Reading, 10th day of Mar., 1910.

Mr. MATHESON.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act respecting Steam Boilers.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as "The Steam Boiler Act." Short title.

2. In this Act "steam boiler" shall mean a boiler used for generating steam for heating and power purposes, and every part thereof or thing connected therewith, and apparatus and things attached to or used in connection with any such boiler, but shall not include a boiler used for heating water for domestic purposes or a railway locomotive or steamboat boiler. Interpretation. "Steam boiler."

3. Upon the recommendation of the Minister of Public Works the Lieutenant-Governor in Council may make such rules, regulations and specifications as may be deemed proper respecting the construction of steam boilers, including the materials to be used, the method of construction, the tests to be applied, the inspection of the boiler during its construction and before it is permitted to leave the place of construction, and generally such other matters as may secure a uniform standard of strength, safety and efficiency. Lieutenant-Governor to make regulations as to construction, etc., of steam boilers.

4. The rules, regulations and specifications shall be published in the *Ontario Gazette* and shall come into force and take effect at a date to be named by Proclamation. When to come into effect.

No. 228

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act respecting Steam Boilers.

1st Reading, 11th day of Mar., 1910.

Mr. REAUME.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act respecting Juvenile Courts.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Every County or District Court Judges' Criminal Court and every Police Magistrate shall constitute a Juvenile Court within the meaning of *The Juvenile Delinquents Act, 1908*, by the Act passed by the Parliament of Canada at the Session held in the 7th and 8th years of His Majesty's reign, Chaptered 40. Juvenile Courts.
7 and 8
Edw. VII.,
(Dom.) c. 40.

2. Every temporary home or shelter provided for children under section 6 of *The Children's Protection Act of Ontario* shall be a detention home within the meaning of the said *The Juvenile Delinquents Act, 1908*. Detention homes.
8 Edw. VII.,
c. 59.

2nd Session, 12th Legislature.
10 Edward VII., 1910.

BILL

An Act respecting Juvenile Courts.

1st Reading, 11th day of Mar., 1910.

Mr. HANNA.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Liquor License Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 33 of *The Liquor License Act*, is amended by striking out the words "shall not be sold in less quantities than one-half dozen bottles" in the 2nd and 3rd lines, and substituting therefor the words, "shall only be sold in original packages." Rev. Stat., c. 245, s. 33, subs. 3, amended. Sale of Mineral Waters.

2. Subsection 4 of section 105 of *The Liquor License Act*, as enacted by section 24 of the Act passed in the ninth year of His Majesty's reign, chaptered 82, is amended by adding at the end thereof the words "but this subsection shall not be construed to confer any right of appeal which is not expressly given by this Act, and every appeal from a conviction or order made thereunder shall be taken, heard and determined in the manner provided by this Act and not otherwise." Rev. Stat., c. 245, s. 105, subs. 4, amended. Appeals.

3. Section 34 of *The Liquor License Act* is amended by adding thereto the following subsection: Rev. Stat., c. 245, s. 34, amended.

(3) In case the applicant for a wholesale license is not a resident of Ontario and has no permanent place of business in Ontario, it shall not be necessary to define the warehouse or other place in which the business is to be carried on. Non-resident applicant for wholesale license.

4. Section 55 of *The Liquor License Act* is amended by inserting after the word "during" in the first line of clause (b) the words "Christmas Day or". Rev. Stat., c. 145, s. 55, amended. Liquor not to be sold on Christmas.

5. Section 125 of *The Liquor License Act* is amended by adding thereto the following subsection: Rev. Stat., c. 145, s. 125, amended.

Notice to be
prima facie
evidence.

3a. The notices mentioned in the two preceding subsections shall be deemed *prima facie* evidence of the allegations therein set out.

6. Section 10 of the Act passed in the sixth year of His Majesty's reign, chaptered 47, is amended by striking out all words therein beginning with the words "for each wholesale license" down to and including the figures "\$350," and substituting therefor the words "for each wholesale license \$500."

No. 230

2nd Session, 12th Legislature,
10 Edward VII., 1910.

BILL.

An Act to amend The Liquor License Act.

1st Reading, 11th day of Mar., 1910.

Mr. HANNA.

TORONTO:

PRINTED BY L. K. CAMERON,

Printer to the King's Most Excellent Majesty.

BILL

An Act to amend The Ontario Companies Act.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section 3 of *The Ontario Companies Act* is amended by adding thereto the following subsection:—

7 Edw. VII.,
c. 34, s. 3,
amended.

(2) Notwithstanding anything in this Act, the Provincial Secretary may, under the Seal of his office, have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant-Governor, but not including those conferred on the Lieutenant-Governor in Council.

Provincial
Secretary
may issue
charters, etc.

2. Section 48 of the said Act is amended by adding thereto the following subsection:—

7 Edw. VII.,
c. 34, s. 48,
unamended.

(2) Should shares in the capital stock of the company be issued in pounds sterling or francs, then shares previously issued in Canadian currency may at the option of the holder be exchanged for shares in pounds sterling or francs, as the case may be. For the purpose of dividends, distribution of assets, voting and all other matters relating to the amount of shares issued in pounds sterling or francs, one pound sterling or twenty-five francs shall be calculated as five dollars. Shares herein shall include share warrants, where the company is authorized to issue the same.

Shares issued
in pounds
sterling or
francs.

231
No. ~~880~~

2nd Session, 12th Legislature.
10 Edward VII., 1910.

BILL.

An Act to amend The Ontario Companies
Act.

1st Reading, 11th day of Mar., 1910.

Mr. HANNA.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Surveys Act.

WHEREAS doubt has arisen as to the proper manner of Preamble.
establishing the angles of sections or blocks as surveyed under Orders in Council bearing date March 27th, 1829, and April 24th, 1906, which have since been or shall be hereafter divided into sections or blocks of 1,000 acres or thereabouts, 640 acres or thereabouts or 1,800 acres or thereabouts, where the same have become obliterated;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. When the concession line in front of the two adjacent Rev. Stat. c. 181.
sections or blocks is shown on the plan and field notes to be on the same astronomic course and the boundaries of the section or block between the lots are shown on the plan and field notes to be on the same astronomic course in the adjacent sections or blocks, the surveyor when called upon to re-establish the angle of the section shall connect the two nearest undisputed points on the concession line in front of the two adjacent sections or blocks by a straight line and join the nearest undisputed points on the boundaries of the section or block on the side line between the lots, and the intersection of these two lines shall be the angle of the adjacent sections. Proviso.
Provided that the nearest undisputed points on the side line or boundaries of the sections or blocks are not more than 20 chains apart and one of such points on either side of the concession line or side line. If such undisputed points on said side line are more than 20 chains apart, the surveyor shall then establish the angle of the different sections or blocks by dividing proportionally, as intended in the original survey, the distance between the two nearest undisputed angles of lots on the concession line in front of said sections or blocks and the point so ascertained shall be the angle of the adjacent sections or blocks.

2. Where the concession line in front of the two adjacent sections or blocks is not on the same astronomic course as laid out in the original survey and shown on the plan and field notes, and the same has become obliterated, the angle of the section shall be established by dividing proportionally, as intended in the original survey, the distance between the front and rear angles of the respective lots on the boundaries of the adjacent sections or blocks and the point so ascertained shall be the angle of the adjacent sections or blocks.

3. If such undisputed posts or monuments cannot be definitely proven within the limits of the sections adjacent to the said angle the surveyor shall report the circumstances of the case to the Minister of Lands, Forests and Mines, who shall instruct him how to proceed.

No. 232.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL

An Act to amend the Surveys Act.

First Reading day of March, 1910.

Mr. COCHRANE.

TORONTO:
PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act to amend the Act respecting the Government House Property.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of The Act respecting the Government House Property is amended by striking out the following words: Rev. Stat., c. 27, s. 1, amended.
“When a perfect title is obtained therefor from the Government of Canada and the same can be sold with profit and advantage and within 5 years,” in the 13th, 14th, 15th and 16th lines of the said section.

2. The remaining sections of the said Act are repealed.

Secs. 2, 3, 4, 5, 6 and 7 repealed.

2nd Session, 12th Legislature,
10 Edward VII, 1910.

BILL.

An Act respecting the Government House
Property.

1st Reading, 14th day of Mar., 1910.

Sir JAMES WHITNEY.

TORONTO:

PRINTED BY L. K. CAMERON,
Printer to the King's Most Excellent Majesty.

BILL

An Act for granting to His Majesty certain sums of money for the public service of the financial year ending on the 31st day of October, 1910, and for the public service of the financial year ending the 31st day of October, 1911.

MOST GRACIOUS SOVEREIGN:

WHEREAS it appears by messages from His Honour John Morison Gibson, Lieutenant-Governor of the Province of Ontario and the estimates accompanying the same, that the sums hereinafter mentioned in the schedules to this Act are required to defray certain expenses of the public service of this Province, not otherwise provided for, for the financial year ending on the 31st day of October, 1910, and for the financial year ending the 31st day of October, 1911, and for other purposes connected with the public service; May it therefore please Your Majesty that it may be enacted, and it is hereby enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows:

Preamble.

1. From and out of the Consolidated Revenue Fund of this Province, there may be paid and applied a sum not exceeding in the whole Four million six hundred and seventy-four thousand five hundred and ninety-seven dollars and sixty-four cents, towards defraying the several charges and expenses of the public service of this Province not otherwise provided for, from the first day of November, 1909, to the thirty-first day of October, 1910, as set forth in Schedule "A" to this Act.

\$4,674,597.64
granted for
year ending
31st October,
1910.

2. From and out of the Consolidated Revenue Fund of this Province, there may be paid and applied a sum not exceeding in the whole Seven million six hundred and twenty-three thousand seven hundred and forty-five dollars and sixty-six cents, towards defraying the several charges and

\$7,623,745.66
granted for
fiscal year
1910-11.

expenses of the public service of this Province, not otherwise provided for, from the first day of November, 1910, to the thirty-first day of October, 1911, as set forth in Schedule "B" to this Act.

Accounts to be laid before Assembly.

3. Accounts in detail of all moneys received on account of this Province during the said financial year 1909-1910, and of all expenditures under Schedule "A" of this Act, shall be laid before the Legislative Assembly at its first sitting after the completion of the said period; and accounts in detail of all moneys received on account of this Province during the financial year 1910-1911 and of all expenditures under Schedule "B" of this Act, shall be laid before the Legislative Assembly at the first sitting after the completion of the said financial year.

Appropriations for 1909-1910 unexpended, to lapse.

4. Any part of the money under Schedule "A" appropriated by this Act out of the Consolidated Revenue, which may be unexpended on the thirty-first day of October, 1910, shall not be expended thereafter, except in the payment of accounts and expenses incurred on or prior to the said day; and all balances remaining unexpended after the said date or at such subsequent date as may be fixed by the Lieutenant-Governor in Council under the provisions of *The Audit Act*, as amended by the Act passed at the last session intituled *An Act respecting the Fiscal Year*, shall on the first day of December following lapse and be written off.

Appropriations for 1910-1911 unexpended, to lapse.

5. Any part of the money under Schedule "B" appropriated by this Act out of the Consolidated Revenue, which may be unexpended on the thirty-first day of October, 1911, shall not be expended thereafter, except in the payment of accounts and expenses incurred on or prior to the said day; and all balances remaining unexpended after the said date or after a date fixed by the Lieutenant-Governor in Council as mentioned in section 4 shall on the first day of December following lapse and be written off.

Accounting for expenditure.

6. The due application of all moneys expended under this Act out of the Consolidated Revenue shall be accounted for to His Majesty.

SCHEDULE "A."

Sums granted to His Majesty by this Act for the financial year ending on the thirty-first day of October, one thousand nine hundred and ten, and the purposes for which they are granted:—

CIVIL GOVERNMENT.

To defray the expenses of the several Departments at Toronto:—

Office of the Prime Minister and President of the Council.....	\$100 00	
Attorney-General's Department..	1,755 00	
Education Department	750 00	
Lands, Forests and Mines Department	8,475 00	
Public Works Department.....	8,200 00	
Treasury Department	1,740 00	
Auditor's Office	2,300 00	
Provincial Secretary's Department	17,575 00	
Department of Agriculture.....	5,640 00	
Miscellaneous	250 00	
		<hr/>
		\$46,785 00

LEGISLATION.

To defray expenses of Legislation..... \$26,260 00

ADMINISTRATION OF JUSTICE.

To defray expenses of Administration of Justice \$61,719 64

EDUCATION.

To defray expenses of:—

Public and Separate School Education	\$41,062 55
Normal and Model Schools, Toronto	550 00
Normal and Model Schools, Ottawa	2,443 00
Normal and Model Schools, London	50 00
Normal School, Hamilton.....	260 00
Normal School, Peterborough...	900 00
Normal School, North Bay.....	675 00
High Schools and Collegiate Institutes	5,200 00
Departmental Library and Museum	1,200 00
Public Libraries, Art Schools, Literary and Scientific.....	900 00
Technical Education	8,600 00
Maintenance Education Department and Miscellaneous	1,300 00

Institution for Deaf and Dumb, Belleville	\$1,350 00	
Blind Institute, Brantford.....	3,900 00	
	<hr/>	\$68,390 55

PUBLIC INSTITUTIONS' MAINTENANCE.

To defray expenses of:—		
Hospital for Insane, Brockville.	\$3,000 00	
Hospital for Insane, Cobourg..	200 00	
Hospital for Insane, Hamilton..	2,400 00	
Hospital for Insane, Kingston..	350 00	
Hospital for Insane, London...	300 00	
Hospital for Insane, Mimico...	850 00	
Hospital for Feeble Minded, Orillia	1,750 00	
Hospital for Insane, Penetan- guishene	300 00	
Hospital for Insane, Toronto...	1,750 00	
Hospital for Epileptics, Wood- stock	2,000 00	
Central Prison, Toronto.....	3,550 00	
Central Prison Industries.....	250 00	
Mercer Reformatory, Toronto..	700 00	
	<hr/>	\$17,400 00

AGRICULTURE.

To defray expenses of a grant in aid of Agri- culture	\$52,018 00
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COLONIZATION AND IMMIGRATION.

To defray expenses of Colonization and Immi- gration	\$26,375 00
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STATIONARY ENGINEERS.

To defray expenses of Stationary Engineers.	\$100 00
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HOSPITALS AND CHARITIES.

To defray expenses of a grant in aid of Hos- pitals and Charities	\$46,750 00
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MAINTENANCE AND REPAIRS OF GOVERNMENT AND
DEPARTMENTAL BUILDINGS.

Government House	\$4,187 58	
Parliament and Departmental Buildings	219,521 00	
	<hr/>	\$223,708 58

PUBLIC BUILDINGS.

Government House	\$125,000	00
Osgoode Hall	70,425	18
Public Institutions:—		
Hospital for Insane, Brockville..	16,000	00
Hospital for Insane, Cobourg...	3,300	00
Hospital for Insane, Hamilton..	28,800	00
Hospital for Insane, Kingston..	23,000	00
Hospital for Insane, London...	41,570	00
Hospital for Insane, Mimico...	19,600	00
Hospital for Feeble Minded, Orillia	14,000	00
Hospital for Insane, Penetanguishene	14,900	00
Hospital for Insane, Toronto...	9,000	00
Hospital for Epileptics, Woodstock	6,500	00
Central Prison, Toronto.....	129,500	00
Mercer Reformatory, Toronto..	5,000	00
Educational:—		
Normal and Model Schools, Toronto	16,595	00
Normal and Model School, Ottawa	2,660	00
Normal School, London.....	990	00
Normal School, Hamilton.....	1,300	00
Normal School, Peterborough...	3,600	00
Normal School, Stratford.....	2,300	00
Normal School, North Bay....	5,600	00
New Normal Schools.....	7,558	00
Deaf and Dumb Institute, Belleville	8,725	00
Institution for the Blind, Brantford	10,774	00
Ontario Agricultural College....	17,750	00
Fruit Experimental Station.....	600	00
Winter Fair Building (addition)	1,000	00
Eastern Dairy School.....	3,500	00
Colonization and Immigration Buildings	17,445	71
Hygienic Building, London.....	7,800	00
Childrens' Shelter	500	00
Districts:—		
Muskoka	1,005	13
Parry Sound	700	00
Sault Ste. Marie	2,500	00
Thunder Bay	3,113	31
Rainy River	1,530	00
Nipissing	7,387	85
Manitoulin	600	00
Sudbury	4,447	00
Kenora	29,075	00
Total Public Buildings...		\$665,651 18

PUBLIC WORKS.

To defray expenses of Public Works..... \$213,637 00

COLONIZATION AND MINING ROADS.

To defray expenses of Construction and Re-
pairs \$464,356 99

CHARGES ON CROWN LANDS.

To defray expenses on account of Crown
Lands \$117,750 00

REFUNDS.

Lands, Forests and Mines.....	\$1,250 00	
Land Improvement Fund.....	1,338 04	
Succession Duty	33,000 00	
		<hr/> \$35,588 04

MISCELLANEOUS EXPENDITURE.

To defray Miscellaneous Expenditure.....\$2,608,107 66

Total Estimates for Expenditure of 1909-	
1910	<hr/> \$4,674,597 64

SCHEDULE "B."

Sums granted to His Majesty by this Act for the financial year ending on the thirty-first day of October, one thousand nine hundred and eleven, and the purposes for which they are granted:—

CIVIL GOVERNMENT.

To defray the expenses of the several Departments at Toronto:—

Lieutenant-Governor's Office...	\$4,650 00
Office of the Prime Minister and President of the Council	7,850 00
Attorney-General's Department	65,276 00
Education Department	29,960 00
Lands, Forests and Mines Department	137,900 00
Public Works Department....	66,660 00
Treasurer's Department	33,804 00
Auditor's Office	15,280 00

Provincial Secretary's Department	\$173,345 00	
Department of Agriculture ...	62,010 00	
Miscellaneous	18,850 00	
		<hr/> \$615,585 00

LEGISLATION.

To defray expenses of Legislation.....	\$255,450 00
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ADMINISTRATION OF JUSTICE.

To defray expenses of Administration of Justice	\$690,741 66
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EDUCATION.

To defray expenses of:—		
Public and Separate School Education	\$992,100 00	
Normal and Model Schools, Toronto	45,290 00	
Normal and Model Schools, Ottawa	46,605 00	
Normal School, London....	25,175 00	
Normal School, Hamilton....	21,075 00	
Normal School, Peterborough.	21,705 00	
Normal School, Stratford....	20,955 00	
Normal School, North Bay..	24,960 00	
High Schools and Collegiate Institutes	154,100 00	
Departmental Library and Museum	18,200 00	
Public Libraries, Art Schools, Literary and Scientific	60,900 00	
Technical Education	63,800 00	
Superannuated Public and High School Teachers.....	62,650 00	
Provincial University and Mining Schools	42,200 00	
Maintenance Education Department and Miscellaneous	31,824 00	
Institution for Deaf and Dumb, Belleville	59,398 00	
Blind Institute, Brantford ..	43,250 00	
		<hr/> \$1,734,187 00

PUBLIC INSTITUTIONS' MAINTENANCE.

To defray expenses of:—	
Hospital for Insane, Brockville	\$113,106 00

Hospital for Insane, Cobourg.	\$28,000 00
Hospital for Insane, Hamilton.	171,127 00
Hospital for Insane, Kingston.	119,193 00
Hospital for Insane, London..	164,000 00
Hospital for Insane, Mimico..	102,550 00
Hospital for Feeble Minded, Orillia	88,467 00
Hospital for Insane, Penetan- guishene	68,765 00
Hospital for Insane, Toronto..	155,947 00
Hospital for Epileptics, Wood- stock	38,736 00
Central Prison, Toronto.....	75,040 00
Central Prison Industries....	63,470 00
Mercer Reformatory, Toronto.	30,925 00
	<hr/> \$1,219,326 00

AGRICULTURE.

To defray expenses of a grant in aid of Agri- culture	\$634,606 00
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COLONIZATION AND IMMIGRATION.

To defray expenses of Colonization and Im- migration	\$73,800 00
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STATIONARY ENGINEERS.

To defray expenses of Stationary Engineers.	\$6,050 00
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HOSPITALS AND CHARITIES.

To defray expenses of a grant in aid of Hos- pitals and Charities	\$319,700 00
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MAINTENANCE AND REPAIRS OF GOVERNMENT AND
DEPARTMENTAL BUILDINGS.

Government House	\$18,000 00
Parliament and Departmental Buildings	193,100 00
	<hr/> \$211,100 00

PUBLIC BUILDINGS.

Government House	\$100,000 00
Parliament Buildings	200,000 00
Osgoode Hall	67,400 00
Public Institutions	101,600 00
Educational	11,500 00

Agriculture	\$800 00	
Districts	22,250 00	
	<hr/>	\$503,550 00

PUBLIC WORKS.

To defray expenses of Public Works.....	\$69,700 00
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COLONIZATION AND MINING ROADS.

To defray expenses of Construction and Repairs	\$118,000 00
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CHARGES ON CROWN LANDS.

To defray expenses on account of Crown Lands	\$561,000 00
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REFUNDS.

Education	\$1,000 00	
Lands, Forests and Mines....	17,000 00	
Miscellaneous	12,000 00	
Succession Duty	33,000 00	
	<hr/>	\$63,000 00

MISCELLANEOUS EXPENDITURE.

To defray Miscellaneous Expenditure.....	\$547,950 00
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Total Estimates for Expenditure of 1910-1911	\$7,623,745 66
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2nd Session, 12th Legislature.
10 Edward VII, 1910.

BILL.

An Act for granting to His Majesty certain sums of money for the Public Service of the financial year ending on the 31st day of October, 1910, and for the Public Service of the financial year ending the 31st day of October, 1911.

1st Reading, 17th day of Mar., 1910.
2nd Reading, 17th day of Mar., 1910.
3rd Reading, 17th day of Mar., 1910.

Mr. MATHESON.

TORONTO:
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